

# **REPORT BY THE EXECUTIVE DIRECTOR OF CITY SERVICES**

## **LICENSING SUB COMMITTEE – 14 JANUARY 2011**

### **DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003**

#### **JOLLY POTTER, RAILWAY TERRACE, SOUTH HYLTON, SUNDERLAND**

**Punch Taverns  
Jubilee House  
Second Avenue  
Burton Upon Trent  
Staffordshire**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1 Members are requested to consider the application and to take such steps as they consider necessary for the promotion of the licensing objectives.

#### **3.0 INTRODUCTION/BACKGROUND**

- 3.1 An application has been received from Northumbria Police under Section 51 of the Licensing Act 2003 applying for a review of the above premises licence on the grounds of the prevention of crime and disorder and public safety (see Appendix 1 for copy of the application).
- 3.2 In their application, Northumbria Police are requesting that Members remove the designated premises supervisor and amend the hours for the sale by retail of alcohol on Friday and Saturday to cease at 23.30 in order to allow patrons to finish their drinks and leave the premises by the closing time of 00.20.

#### **4.0 CURRENT POSITION**

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise on, at or near the premises the fact that a review is to take place and invite representations from both Responsible Authorities and Interested Parties. This notice was displayed at the premises for the statutory period of 28 days commencing on 19 November 2010.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received. For Members' information, no relevant representations were received from either a Responsible Authority or an Interested Party.

## **5.0 REASONS FOR THE DECISION**

5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

## **6.0 ALTERNATIVE OPTIONS**

6.1 None submitted.

## **7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS**

7.1 For Members' information, the provisions of sections 11.16 to 11.22 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter.

'The 2003 Act provides a range of powers for the Licensing Authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

The Licensing Authority 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 a Licensing Authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings 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 or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

Where the Licensing Authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

In deciding which of these powers to invoke, it is expected that Licensing Authorities should so far as possible seek to establish the cause or causes of the concerns

which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

For example, Licensing Authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Accordingly temporary changes or suspension of the licence for up to three months may be imposed. This could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. Accordingly, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a Licensing Authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for a review.'

## **8.0 GLOSSARY**

8.1 No acronyms or abbreviations have been used in this report.

## **9.0 LIST OF APPENDICES**

9.1 Appendix 1 Application Form

## **10.0 BACKGROUND PAPERS**

10.1 None

# Appendix 1





**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I Chief Inspector Carol Parkes on behalf of Northumbria Police apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or Club premises details**

Postal address of premises or club premises, or if none, ordnance survey map reference or description The Jolly Potter Railway Terrace	
Post town Sunderland	Post code (if known) SR4 0PZ
Name of premises licence holder or club holding club premises certificate (if known) Punch Taverns	
Number of premises licence or club premises certificate (if known) 00CMPREM229	

**Part 2 – Applicant details**

I am Please tick  yes

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises



2) a responsible authority  
(please complete (C) below)



3) a member of the club to which this application relates  
(please complete (A) below)



**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Mr

Mrs

Miss

Ms

Other title  
(for example Rev)

Surname

First names

Please tick  yes

I am 18 years old or over

Current Address

Post Town

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

<b>Name and address</b> Chief Inspector Carol Parkes Northumbria Police Sunderland Area Command Gillbridge Avenue Police Station Gillbridge Avenue Sunderland SR1 3AW
<b>Telephone number (if any)</b> 0191 5636655
<b>E-mail (optional)</b> carol.parkes.7249@northumbria.pnn.police.uk

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes Y

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

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Please state the ground(s) for review (please read guidance note 1)**  
Operation Barracuda was launched by Northumbria Police in January 2010 to improve both the safety and feelings of safety, of residents, visitors and employees affected by, or involved in the night time economy within Sunderland. The intention to reduce crime and disorder and to tackle crime and anti social behaviour through early intervention, to prevent escalation to more serious crimes. Two teams of officers, of a Sergeant and five constables, were provided to carry out dedicated patrols and licensed premises visits.  
As part of Operation Barracuda The Jolly Potter has been inspected on seven occasions. On each inspection there have been issues identified at the premises, a spreadsheet has been attached to this document detailing each individual inspection.  
One of the main concerns relates to the safety of the public on the premises. On two occasions when Police arrived at the premises it appeared closed as all curtains were closed and the metal front door roller shutter was pulled down. On closer inspection music was heard coming from the premises. The roller shutter was prised up by the Police Officers and upon gaining entry customers were still inside. Whilst inside it was identified that fire exits were padlocked shut and the only door in use was a rear exit through the kitchen.  
On all inspections breaches of licence have been identified, these issues have been





raised with the Premises Licence Holders Punch Taverns and copies of the letters sent have been attached. Four letters have been sent on 22 March 2010, 27 March 2010, 6 May 2010 and 21 September 2010, issues have still not been rectified. There also seems to be a issue with drugs use on the premises as on six of the visits cocaine has been found in the toilets, the DPS Ann Young and Elsie Young who has also been managing the premises and holds a personal licence, have both been informed.

It is evident that licensing breaches have not been attempted to be rectified and that the management of the premises take a blasé attitude to their responsibilities under the Licensing Act. In this instance the Police request that the Licensing committee;

- Remove the DPS
- Amend the hours for retail sale of alcohol on a Friday and Saturday to cease at 23:30hrs in order to allow patrons to finish their drinks and leave the premises by the closing time of 00:20hrs.

Please tick  yes

Have you made an application for review relating to these premises before

If yes please state the date of that application  
Year

Day Month

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**If you have made representations before relating to this premises please state what they were and when you made them**

Please tick  yes

- ◆ I have sent copies of this form and enclosures to the responsible authorities  and the premises licence holder or club holding the club premises certificate, as appropriate
- ◆ I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**



**Part 3 - Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature  C/INS 7710 pp. C/INSA 7249 PAGES

Date 18/11/10

Capacity CHIEF INTELLIGENCE OPERATIONS, SUDBURY

<b>Contact name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 5) Sarah Howson Northumbria Police Sunderland Area Command Gillbridge Avenue Police Station Gillbridge Avenue Sunderland SR1 3AW	
<b>Post town</b> Sunderland	<b>Post code</b> SR1 3AW
<b>Telephone number</b> (if any) 0191 5636655	
<b>If you would prefer us to correspond with you using an e-mail address, your e-mail address</b> (optional)	

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have the actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

OPERATION BARRACUDA

Jolly Potter Railway Terrace, Sunderland

Date Visited	Time	DPS	Person in charge	Attitude of person in charge	Door Count	Customers leaving with glass/bottles	Bottles/ Glasses on table	Drug use in toilets?	Age group, male/female	Drunken customers getting served?	Fire rage adhered to	CCTV Working?	CCTV kept for recording	Noise level	Comments
14/03/2010	0040	Ann Young - Licence No: OOCMPER328	Eisla Young - Licence No: OOCMPER327	Not very helpful	40 - Guesseed	No	Yes	Checked - Yes cocaine both male & female	Mixed - mostly drunk - negative attitude towards Police	Yes	No	Yes	Could not operate	Excessive	Bottles and glasses littered on tables Drunken customers getting served after licensing hours No fire extinguishers, exits blocked with chairs & fire door padlocked No members of staff first aid trained & no first aid box Excessive noise coming from premises Signs of drug use in both male and female toilets Unhelpful attitude towards police presence Alcohol being served after licensing hours, till rolls seized & thrown last sale at 0148
20/03/2010	0030	Ann Young - Licence No: OOCMPER328	Eisla Young - Licence No: OOCMPER327	Obnoxious - refused to cooperate	40-50 Guesseed	No	Yes	Checked - Yes cocaine	Mixed	Yes	No	No	Not known	Acceptable	Tables littered with bottles and glasses Signs of drug use in male toilets Fire doors had padlocks on, no fire extinguishers Staff unable to operate CCTV - Not known how long retained Females found smoking in toilets No first aid kit used for football match Drunken customers being served after licensing hours - till rolls seized Person in charge intoxicated at time of visit
26/03/2010	0047	Ann Young - Licence No: OOCMPER328	Annie Young - Licence not available	Not welcoming or helpful	Patrons leaving by exit door	No	No	Checked - Yes cocaine	Mixed	No	Yes	Yes	22/03/2010	Quiet	Heavy signs of drug use on seats in toilets CCTV not kept for 14 days Patrons still in premises after it should be closed
24/04/2010	0030	Ann Young - Licence No: OOCMPER328	Eisla Young - Licence No: OOCMPER327	Not happy	50	Yes	No	Checked - Yes white powder	Mixed age - not happy when asked to leave	Yes	No	No	Not known	Acceptable	Customers seen leaving with bottles and glasses Signs of drugs use in male and female toilets No members of staff first aid trained Staff unable to operate CCTV and retention period not known
04/09/2010	0020	Ann Young - Licence No: OOCMPER328	Annie Young - Licence not available	Displeasable	15-20	No	No	Checked - Yes cocaine	Not stated	No	Yes	No	Not known	Quiet	Signs of drugs use in toilets DPS was not helpful and could not operate CCTV Signs of drugs use in male and female toilets
02/10/2010	0020	Ann Young - Licence No: OOCMPER328	Annie Young - Licence not available	DPS stated she was aware of licensing obligations	10-15	No	No	Not checked	40-50 years	No	No	Yes	Not known	Acceptable	Patrons still in premises after it should be closed DPS could not operate CCTV
22/10/2010	2350	Ann Young - Licence No: OOCMPER328	Eisla Young - Licence No: OOCMPER327	Obnoxious - refused to cooperate	40	No	No	Checked - nil	Mixed	Yes	No	Yes	Not known	Acceptable	Patrons still in premises after it should be closed DPS could not operate CCTV

Punch Taverns PLC  
Compliance Department  
Jubilee House  
Burton-Upon-Trent  
Staffordshire  
DE14 2WF

22 March 2010

**Licensing Act 2003**  
**Inspection of The Jolly Potter, Railway Terrace, Sunderland.**

Following the inspection of the above premises carried out at 00:40 hours on Sunday 14<sup>th</sup> March 2010 by officers of Northumbria Police the following matters have been identified as requiring your attention:-

1. It is a condition of the Premises Licence that the standard opening hours for the day inspected are that the premises must close to the public at 00:20 hours, with last sale of alcohol at 00:00 hours. On Police arrival the premises appeared closed as all curtains were closed and the metal front door shutter was pulled half way down the door. On closer inspection loud music was heard coming from the premises, when the Police gained entry there were approximately 40 persons within the premises still consuming alcohol. The till roll for the evening was seized by officers which showed the last sale of alcohol at 01:48 hours, the personal licence holder on the premises Elsie YOUNG informed Officers that the till was 1 hour fast. This is therefore, potentially, a breach of Section 136 of the Act.
2. No fire extinguishers were at the premises and there was no first aid box in place.
3. Fire exits were blocked with chairs and fire exit doors were padlocked.
4. The customers at the premises were extremely intoxicated.
5. Evidence of cocaine use was found in both the male and female toilets.
6. The music coming from the premise was excessive.

I must advise you that officers from Northumbria Police will be inspecting the premises again and, should it be found that they are operating in breach of **any** of the requirements of the Act, we would be obliged to consider dealing with the matter in a less lenient fashion.

Should you have any queries with regard to this matter please contact Sarah Howson, Licensing Coordinator, **telephone no 0191 5636655**.

Yours faithfully

Sarah Howson  
Licensing Coordinator  
Sunderland Area Command  
Northumbria police

Punch Taverns PLC  
Compliance Department  
Jubilee House  
Burton-Upon-Trent  
Staffordshire  
DE14 2WF

27 March 2010

**Licensing Act 2003**  
**Inspection of The Jolly Potter, Railway Terrace, Sunderland.**

Following the inspection of the above premises carried out at 00:30 hours on Saturday 20<sup>th</sup> March 2010 by officers of Northumbria Police the following matters have been identified as requiring your attention:-

1. It is a condition of the Premises Licence that the standard opening hours for the day inspected are that the premises must close to the public at 00:20 hours, with last sale of alcohol at 00:00 hours. On Police arrival the premises appeared closed as all curtains were closed and the metal front door shutter was pulled half way down the door. On closer inspection loud music was heard coming from the premises, when the Police gained entry there were approximately 50 persons within the premises still consuming alcohol. The till roll for the evening was seized by officers which showed the last sale of alcohol at 01:06 hours, the personal licence holder on the premises Elsie YOUNG informed Officers that the till was 1 hour fast. This is therefore, potentially, a breach of Section 136 of the Act.
2. No fire extinguishers were at the premises and there was no first aid box in place.
3. Fire exits were blocked with chairs and fire exit doors were padlocked.
4. The customers at the premises were extremely intoxicated.
5. Evidence of cocaine use was found in both the male and female toilets.
6. Staff were unable to operate CCTV and could not show the Police on request any CCTV footage. This is therefore, potentially, a breach of Section 136 of the Act.

We would therefore request that your regional manager for the Jolly Potter contact Sarah Howson the Licensing Coordinator at Gillbridge Avenue Police Station as soon as possible so this matter can be discussed further.

Yours faithfully

Sarah Howson  
Licensing Coordinator  
Sunderland Area Command  
Northumbria police  
0191 5636655

Punch Taverns PLC  
Compliance Department  
Jubilee House  
Burton-Upon-Trent  
Staffordshire  
DE14 2WF

6 May 2010

**Licensing Act 2003**  
**Inspection of The Jolly Potter, Railway Terrace, Sunderland.**

Following the inspection of the above premises carried out at 00:30 hours on Saturday 24<sup>th</sup> April 2010 by officers of Northumbria Police the following matters have been identified as requiring your attention:-

1. It is a condition of the Premises Licence that the standard opening hours for the day inspected are that the premises must close to the public at 00:20 hours, with last sale of alcohol at 00:00 hours. On Police arrival approximately 50 customers were still in the premises consuming alcohol. This is therefore, potentially, a breach of Section 136 of the Act.
2. Fire exits were blocked with chairs and fire exit doors were padlocked.
3. The customers at the premises were extremely intoxicated.
4. Evidence of cocaine use was found in both the male and female toilets.
5. Staff were unable to operate CCTV and could not show the Police on request any CCTV footage. This is therefore, potentially, a breach of Section 136 of the Act.

Yours faithfully

Sarah Howson  
Licensing Coordinator  
Sunderland Area Command  
Northumbria police  
0191 5636655

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21 September 2010

**Licensing Act 2003**  
**Inspection of The Jolly Potter, Railway Terrace, Sunderland.**

Following the inspection of the above premises carried out at 00:20 hours on Saturday 4<sup>th</sup> September 2010 by officers of Northumbria Police the following matters have been identified as requiring your attention:-

1. It is a condition of the Premises Licence that the standard opening hours for the day inspected are that the premises must close to the public at 00:20 hours, with last sale of alcohol at 00:00 hours. On Police arrival approximately 25 customers were still in the premises consuming alcohol. This is therefore, potentially, a breach of Section 136 of the Act.
2. Fire exits were blocked with access to the premises by the rear kitchen door.
3. Evidence of cocaine use was found in the toilets.
4. The customers at the premises were extremely intoxicated.
5. The DPS was unable to operate CCTV and could not show the Police on request any CCTV footage. The DPS stated that the footage was retained for 10 days, not 28 days as per the premises licence. This is therefore, potentially, a breach of Section 136 of the Act.

Yours faithfully

Sarah Howson  
Licensing Coordinator  
Sunderland Area Command  
Northumbria police  
0191 5636655