

**North Hertfordshire District Council
Licensing Act 2003
Decision Notice**

Date of Hearing	Friday 2 nd September 2005						
Members of Panel	L Kercher, J Kirby and L McNamara						
Applicant(s) Name	Mr David P Owen						
Premises Address	The Phoenix PH, 63 Bancroft, Hitchin, Herts, SG5 1LL						
Date of Application	Tuesday 7 th June 2005						
APPLICATION FOR VARIATION	<p>This is an application for variation of a Premises Licence during the transitional period under Schedule 8 paragraph 7(b) of the Licensing Act 2003.</p> <p>The Sub-Committee have read the material presented to us and have listened to all the evidence and submissions. The Sub-Committee has considered the National Guidance and the Statement of Licensing Policy and has come to the following decision:</p> <p>The application is approved subject to the conditions and hours as are set out below.</p> <p>1. <u>OPENING HOURS</u></p> <p>The permitted opening hours are:</p> <table style="margin-left: 20px;"> <tr> <td>Monday to Wednesday</td> <td>1100hrs to 2400hrs</td> </tr> <tr> <td>Thursday to Saturday</td> <td>1100hrs to 0100hrs the following morning</td> </tr> <tr> <td>Sunday</td> <td>1100hrs to 2400hrs</td> </tr> </table> <p>These hours are to apply each day of the year with the exception of:</p> <ul style="list-style-type: none"> •☐☐☐ Christmas Eve •☐☐☐ Boxing Day •☐☐☐ Friday, Saturday, Sunday and Monday on Bank Holiday Weekends. <p>On all these days the permitted hours will be from 1100hrs to 0130hrs the following morning.</p> <p><u>AND</u></p> <p>To be permitted to open from 1100hrs on (31/12) New Year's Eve to 0030hrs on (2/01) the day following New Year's Day.</p>	Monday to Wednesday	1100hrs to 2400hrs	Thursday to Saturday	1100hrs to 0100hrs the following morning	Sunday	1100hrs to 2400hrs
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Thursday to Saturday	1100hrs to 0100hrs the following morning						
Sunday	1100hrs to 2400hrs						

2. LICENSABLE ACTIVITIES

The licensable activities applied for are:

- PART C – Indoor Sporting Events
- PART E – Live Music
- PART F – Recorded Music
- PART G – Performances of dance
- PART H – Anything of a Similar Nature – Parts E, F or G – eg Karaoke
- PART I – Provision of Facilities for Making Music
- PART J – Provision of Facilities for Dancing
- PART K – Provision of Facilities for entertainment of a similar description to that falling within I or J.
- PART L – Late Night Refreshment.
- PART M – Supply of Alcohol

For the following licensable activities:

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- PART E – Live Music
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- PART H – Anything of a Similar Nature – Parts E, F or G – eg. Karaoke
- PART I - Provision of Facilities for Making Music
- PART J – Provision of Facilities for Dancing
- PART K – Provision of Facilities for entertainment of a similar description to that falling within I or J.

The permitted hours are:

Monday to Wednesday	1100hrs to 2330hrs
Thursday to Saturday	1100hrs to 0030hrs the following morning
Sunday	1100hrs to 2330hrs

These hours are to apply each day of the year with the exception of:

- Christmas Eve
- Boxing Day
- Sunday and Monday on Bank Holiday Weekends.

On all these days the permitted hours will be from 1100hrs to 0100hrs the following morning. Subject to the condition that all regulated entertainment will cease at 2400hrs.

AND

To be permitted to provide this licensable activity from 1100hrs on New Year's Eve (31/12) to 2400hrs on New Year's Day (1/01).

PART L – Late night refreshment

The permitted hours are:

Monday to Wednesday 2300hrs to 2330hrs
Thursday to Saturday 2300hrs to 0030hrs the following morning
Sunday 2300hrs to 2330hrs

These hours are to apply each day of the year with the exception of:

- ☐☐☐ Christmas Eve
- ☐☐☐ Boxing Day
- ☐☐☐ Sunday and Monday on Bank Holiday Weekends.

On all these days the permitted hours will be from 2300hrs to 0100hrs the following morning.

AND

To be permitted to provide this licensable activity from 2300hrs on New Year’s Eve (31/12) to 2400hrs on New Year’s Day (1/01).

PART M - Supply of alcohol

The permitted hours are:

Monday to Wednesday 1100hrs to 2330hrs
Thursday to Saturday 1100hrs to 0030hrs the following morning
Sunday 1100hrs to 2330hrs

These hours are to apply each day of the year with the exception of:

- ☐☐☐ Christmas Eve
- ☐☐☐ Boxing Day
- ☐☐☐ Friday, Saturday, Sunday and Monday on Bank Holiday Weekends.

On all these days the permitted hours will be from 1100hrs to 0100hrs the following morning.

AND

To be permitted to provide this licensable activity from 1100hrs on New Year’s Eve (31/12) to 2400hrs on New Year’s Day (1/01).

REMOVAL OF EMBEDDED RESTRICTIONS

The applicant has sought to have the conditions set out at part P of their application removed. The Sub-Committee allows this request.

<p>CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES</p>	<p>The Sub-Committee recognises that conditions will <u>only</u> be imposed on a licence where conditions are necessary for the promotion of one of the four licensing objectives. The Sub-Committee will only impose conditions on a licence where relevant representations have been made and they consider that it is necessary to impose conditions as a result of these representations.</p> <p>The following condition is considered necessary by the Sub-Committee to promote the licensing objective of the prevention of public nuisance.</p> <p>1. There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public notices or signs requiring the customers to leave the premises and area quietly.</p>
<p>CONDITIONS PROPOSED BY APPLICANT</p>	<p>This licence will be subject to conditions that are consistent with the terms offered by the applicant in order to promote the four licensing objectives set out in part Q of their application.</p> <p><u>Plus:</u></p> <p>1. The outside area of the premises will not be used at any time for the provision of regulated entertainment.</p> <p>2. All regulated entertainment will cease inside the premises at 2400hrs, with the exception of New Year's Eve.</p>
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</p>	<p>The Sub-Committee has explained to the applicant the effect of failure to comply with any of the conditions attached to the licence or certificate is a criminal offence, which upon conviction, would result in a fine of up to £20,000 or up to six months imprisonment or both.</p>
<p>STATEMENT OF LICENSING POLICY</p>	<p>The Sub-Committee has taken into account the North Hertfordshire District Council's Statement of Licensing Policy in reaching their decision. They have found the following sections to be of particular relevance in reaching this decision.</p> <p>4. Regulating Licensing</p> <p>4.1 <i>Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters, which are within the control of the individual licence holders and others in possession of relevant authorisations.</i></p> <p>4.2 <i>Licensing law is not a mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises or event and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing</i></p>

	<p><i>law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.</i></p> <p>4.3 <i>In addressing these matters the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.</i></p>
COMMENCEMENT DATE	This licence will come into effect from the second appointed day, namely the 24 th of November 2005.
RIGHTS OF REVIEW	At any stage, following the grant of a premises licence, a responsible authority, such as the Police or an interested party, such as a resident living in the vicinity of the premises may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The review is a request for the Council to look at the existing licence and decide whether its conditions are adequate to meet the four licensing objectives defined under the Licensing Act 2003.