

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

Date of Hearing	Thursday 22 nd September 2005						
Members of Panel	J. Cunningham, A. Bardett and L. McNamara						
Applicant(s) Name	TGI Leisure Company Ltd						
Premises Address	Bar Absolute, 24 Sun Street, Hitchin, Herts, SG5 1AH						
Date of Application	Tuesday 26 th July 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 <u>approved</u> 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="width: 100%; border: none;"> <tr> <td style="width: 50%;">Monday to Thursday</td> <td>1000hrs to 0130hrs the following morning</td> </tr> <tr> <td>Friday and Saturday</td> <td>1000hrs to 0230hrs the following morning</td> </tr> <tr> <td>Sunday</td> <td>1000hrs to 0130hrs the following morning</td> </tr> </table> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none"> • <input type="checkbox"/> PART B – Films • <input type="checkbox"/> PART E – Live music • <input type="checkbox"/> PART F – Recorded Music • <input type="checkbox"/> PART G – Performances of dance • <input type="checkbox"/> PART I – Provision of facilities for making music • <input type="checkbox"/> PART J – Provision of Facilities for dancing • <input type="checkbox"/> PART L – Late night refreshment • <input type="checkbox"/> PART M – Supply of alcohol <p>The hours during which the licensable activities may take place are:</p>	Monday to Thursday	1000hrs to 0130hrs the following morning	Friday and Saturday	1000hrs to 0230hrs the following morning	Sunday	1000hrs to 0130hrs the following morning
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Friday and Saturday	1000hrs to 0230hrs the following morning						
Sunday	1000hrs to 0130hrs the following morning						

- PART B - Films**
- PART E – Live music**
- PART F – Recorded music**
- PART G - Performances of dance**
- PART I – Provision of facilities for making music**
- PART J – Provision of facilities for dancing**

The permitted hours are:

Monday to Thursday	1000hrs to 0100hrs the following morning
Friday and Saturday	1000hrs to 0200hrs the following morning
Sunday	1000hrs to 0100hrs the following morning

PART L – Late night refreshment

The permitted hours are:

Monday – Thursday	1100hrs to 0130hrs the following morning
Friday and Saturday	1100hrs to 0230hrs the following morning
Sunday	1100hrs to 0130hrs the following morning

PART M – Supply of Alcohol

The permitted hours are:

Monday – Thursday	1000hrs to 0100hrs the following morning
Friday and Saturday	1000hrs to 0200hrs the following morning
Sunday	1000hrs to 0100hrs the following morning

NON-STANDARD TIMINGS

The permitted hours set out above shall apply on each day of the year with the exception of:

- | | | | |
|---------------------------------------|---|---|-----------------------------|
| 1. New Year's Day | - | - | (1 st January) |
| 2. Burn's Night | - | - | (No set date) |
| 3. Saint Valentine's Day | - | - | (14 th February) |
| 4. St David's Day | - | - | (1 st March) |
| 5. St Patrick's Day | - | - | (17 th March) |
| 6. Good Friday | - | - | (No set date) |
| 7. Easter Saturday | - | - | (No set date) |
| 8. Easter Sunday | - | - | (No set date) |
| 9. Easter Monday | - | - | (No set date) |
| 10. St George's Day | - | - | (23 rd April) |
| 11. The Sunday of May Bank Holiday | - | - | (No set date) |
| 12. The Sunday of Spring Bank Holiday | - | - | (No set date) |
| 13. The Sunday of August Bank Holiday | - | - | (No set date) |
| 14. St Andrew's Day | - | - | (30 th November) |
| 15. Christmas Eve | - | - | (24 th December) |
| 16. Christmas Day | - | - | (25 th December) |
| 17. Boxing Day | - | - | (26 th December) |
| 18. Day after Boxing Day | - | - | (27 th December) |

	<p>19. Two days after Boxing Day - (28th December)</p> <p>On these celebration days the premises may remain open for one additional outside of the standard permitted hours. On these celebration days all permitted licensable activities may continue for one additional hour outside of the standard permitted hours. These exceptions do not apply if the celebration day falls on either a Friday or a Saturday.</p> <p><u>AND</u></p> <p>The premises shall retain the existing New Year's Eve hours, as permitted by the Licensing Act 1964.</p> <p><u>AND</u></p> <p>On days when major sporting events are held and those events take place outside of the standard permitted hours, the premises may open 1 hour before the start of the event (the due start time, kick off etc.) and/or close up to 2 hours after the event (the final whistle, presentation of cup etc.). During the hours that the premises are open they are permitted to supply alcohol and provide late night refreshment.</p> <p>The licensing authority notes that the applicant has agreed to notify the licensing department at the Hitchin Police Station, of all events that fall within the non-standard timings, with at least 21 days notice in advance. That notice will provide the proposed times that the events will take place and any other relevant information. The applicant accepts such events will only take place when agreed by the Police in writing. If the Police object to an event they will provide notice of their objection to the applicant at least seven days in advance.</p>
<p>CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES</p>	<p>The Sub-Committee recognises that conditions will only 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 conditions are considered necessary by the Sub-Committee to promote the licensing objective of the prevention of public nuisance.</p> <p>The conditions are:</p> <ol style="list-style-type: none"> 1. A noise management plan will be produced and provided to an Environmental Protection Officer at the North Hertfordshire District Council prior to 24 November 2005. Any conditions set out on that plan will not form conditions of this licence but abiding by the conditions attached to the plan are considered by this Licensing Authority to be good practice. 2. During events where regulated entertainment is provided all doors and windows will be kept closed after 2300hrs every

	<p>evening, except to allow for egress and ingress to the premises and in the event of an emergency.</p>
<p>CONDITIONS PROPOSED BY APPLICANT</p>	<p>This licence will be subject to conditions consistent with 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> <ol style="list-style-type: none"> 1. That all persons aged under 18 years of age will be removed from the premises and/or prevented from entering the premises whilst any video or television transmissions are shown that have been classified by the British Board of Film Classification as restricted for viewing by persons aged 18 years and over. 2. That during all occasions when adult entertainment is provided at the premises, persons under the age of 18 years will be removed from the premises and/or prevented from entering the premises. 3. On occasions when adult entertainment is provided steps will be taken to ensure that such entertainment is not visible from the outside area of the premises on Sun Street.
<p>REMOVAL OF EMBEDDED RESTRICTIONS</p>	<p>The applicant has sought to have the conditions set out at part P of the application removed. The Sub-Committee allows this request.</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>

law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.

- 4.3 *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.*

5. Licence Conditions

- 5.1 *The Council will tailor any conditions to the individual circumstances of the premises and events concerned and will seek to avoid attaching disproportionate and over burdensome conditions on licences.*

- 5.2 *Conditions will only be imposed when they are necessary for the promotion of the Licensing Objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.*

7. Licensing Hours

- 7.1 *The Council recognises that fixed and overly restrictive opening times can lead to peaks of disorder and disturbance on the streets due to large numbers of people leaving licensed premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. Longer licensing hours with regard to the sale of alcohol are an important factor in reducing these concentrations and the resulting crime and disorder.*

- 7.2 *The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.*

9. The Prevention of Public Nuisance

- 9.1 *Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'Public Nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.*

10. Live Music, Dancing and Theatre

	<p>10.1 <i>The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.</i></p> <p>10.2 <i>Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.</i></p> <p>10.3 <i>The Council will avoid any measure, which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.</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.