

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

Date of Hearing	Monday 26 th September 2005
Members of Panel	J. Cunningham, M. Muir and S. Wren.
Applicant(s) Name	Mr Antony Eric Macaree and Sherry Ann Macaree
Premises Address	The Sailor Boy, 95 Woolgrove Road, Hitchin, Herts, SG4 0AU
Date of Application	Sunday 10 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> <p>Monday to Thursday 1100hrs to 0030hrs the following morning Friday and Saturday 1100hrs to 0130hrs the following morning Sunday 1100hrs to 0030hrs the following morning</p> <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, •☐☐☐ St Valentine's Day, •☐☐☐ St. Patrick's Day •☐☐☐ St. George's Day, •☐☐☐ Good Friday, Easter Saturday, Easter Sunday, •☐☐☐ The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays •☐☐☐ Halloween <p>On all these days the hours will be from 1100hrs to 0130hrs the following morning</p> <p><u>AND</u></p> <p>On days when major sporting and non-sporting events are held and</p>

those events take place outside of the standard permitted hours, the premises may remain open 30 minutes before the start of the event (the due start time, kick off etc.) and/or close 30 minutes after the event (the final whistle, presentation of cup etc.).

AND

The premises will retain the existing New Year's Eve permitted hours.

2. LICENSABLE ACTIVITIES

The licensable activities applied for are:

- PART B – Films
- PART C – Indoor Sporting Events
- PART E – Live Music
- PART F – Recorded Music
- PART G – Performance of a Dance
- PART I – Provision of Facilities for Making Music
- PART J – Provision of Facilities for Dancing
- PART L – Late Night Refreshment
- PART M - Supply of Alcohol

The hours during which the licensable activities may take place are:

PART B - Films

Thursday 2000hrs to 2300hrs
Friday and Saturday 2000hrs to 2400hrs

These hours are to apply with the exception of:

- Christmas Eve,
- Boxing Day,
- St Valentine's Day,
- St. Patrick's Day
- St. George's Day,
- Good Friday, Easter Saturday, Easter Sunday,
- The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays
- Halloween

On all these days the permitted hours will be from 2000hrs to 2400hrs.

PART C – Indoor Sporting Events

Monday to Thursday 2000hrs to 2400hrs

PART F – Recorded Music

Monday to Thursday 1100hrs to 2400hrs
Friday and Saturday 1100hrs to 0100hrs the following morning
Sunday 1100hrs to 2400hrs

These hours are to apply with the exception of:

- ☐☐☐ Christmas Eve,
- ☐☐☐ Boxing Day,
- ☐☐☐ St Valentine’s Day,
- ☐☐☐ St. Patrick’s Day
- ☐☐☐ St. George’s Day,
- ☐☐☐ Good Friday, Easter Saturday, Easter Sunday,
- ☐☐☐ The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays
- ☐☐☐ Halloween

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

AND

When discos or karaoke are being provided at the premises this form of entertainment will cease on all occasions at 2400hrs.

AND

This licensable activity will be permitted during the hours the premises are open to the public on New Year’s Eve/New Year’s Day.

PART E – Live Music

PART G – Performance of Dance

PART I – Provision of facilities for making music

PART J – Provision of facilities for dancing

Friday and Saturday 2000hrs to 2400hrs

These hours are to apply with the exception of:

- ☐☐☐ Christmas Eve,
- ☐☐☐ Boxing Day,
- ☐☐☐ St Valentine’s Day,
- ☐☐☐ St. Patrick’s Day
- ☐☐☐ St. George’s Day,
- ☐☐☐ Good Friday, Easter Saturday, Easter Sunday,
- ☐☐☐ The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays
- ☐☐☐ Halloween

On all these days the permitted hours will be from 2000hrs to

2400hrs.

AND

This licensable activity will be permitted during the hours the premises are open to the public on New Year's Eve/New Year's Day.

PART L – Late night refreshment

Monday to Thursday 2300hrs to 2400hrs
Friday and Saturday 2300hrs to 0100hrs the following morning
Sunday 2300hrs to 2400hrs

These hours are to apply with the exception of:

- Christmas Eve,
- Boxing Day,
- St Valentine's Day,
- St. Patrick's Day
- St. George's Day,
- Good Friday, Easter Saturday, Easter Sunday,
- The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays
- Halloween

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

AND

This licensable activity will be permitted between 2300hrs on New Year's Eve to 0500hrs on New Year's Day.

PART M - Supply of alcohol

Monday to Thursday 1100hrs to 2400hrs
Friday and Saturday 1100hrs to 0100hrs the following morning
Sunday 1100hrs to 2400hrs

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

- Christmas Eve,
- Boxing Day,
- St Valentine's Day,
- St. Patrick's Day
- St. George's Day,
- Good Friday, Easter Saturday, Easter Sunday,
- The Saturday, Sunday and Monday of the May, Spring and August Bank Holidays
- Halloween

On all these days the permitted hours will be from 1100hrs to

	<p>0100hrs the following morning.</p> <p><u>AND</u></p> <p>On days when major sporting and non-sporting events are held and those events take place outside of the standard permitted hours, the permitted hours for the supply of alcohol will match those hours that premises may remain open.</p>
<p>NON-STANDARD TIMINGS</p>	<p>The premises will be allowed to open for extended hours on 12 occasions in any calendar year. These ‘special events’ are in addition to the stated calendar dates set out above. On these days the premises is permitted to open between the hours of 1100hrs and 0130hrs the following morning.</p> <p>The following licensable activities are permitted between the hours of 2000hrs and 2400hrs;</p> <ul style="list-style-type: none"> • PART B – Films • PART E – Live Music • PART G – Performance of a Dance • PART I – Provision of Facilities for Making Music • PART J – Provision of Facilities for Dancing <p>The following licensable activities are permitted between the hours of 1100hrs and 0100hrs the following morning;</p> <ul style="list-style-type: none"> • PART F – Recorded Music • PART M - Supply of Alcohol <p>The following licensable activity is permitted between the hours of 2300hrs and 0100hrs the following morning;</p> <ul style="list-style-type: none"> • PART L – Late Night Refreshment <p>On these special events a written log is to be kept by the licensee of the event held and will be made available to the licensing authority at their request.</p>
<p>SPORTING EVENTS</p>	<p>The applicant has applied to be permitted to open earlier to show ‘major/relevant’ sporting events. The applicant has not specified:</p> <ol style="list-style-type: none"> 1. The events they want permission to open early for, or 2. The number of occasions in the calendar year that they want to open early, or 3. The number of hours before their standard permitted hours that they seek permission to open. <p>Due to vague nature of this request the applicant could potentially be applying to open 24 hours a day, 7 days a week.</p> <p>The Sub-Committee is not satisfied that allowing this aspect of the</p>

	<p>application would meet the licensing objective of the prevention of public nuisance. Accordingly this aspect of the application is refused.</p> <p>The Sub-Committee notes that the live broadcast of sporting events is not a licensable activity. Accordingly the applicant will be entitled to show sporting events at any time during standard permitted opening hours or during one of the 12 occasions that they have been granted extended hours permission.</p>
<p>NOTIFICATION TO POLICE</p>	<p>The licensing authority notes that the applicant has agreed to notify the licensing department at the Hitchin Police Station, of all special events that fall outside the standard timings with at least 21 days written notice in advance. That notice will provide the proposed times that the events will take place and any other relevant information.</p>
<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>Given the proximity to a large number of residential properties the following conditions are each considered necessary by the Sub-Committee to promote the licensing objective of prevention of public nuisance.</p> <p>The conditions are:</p> <ol style="list-style-type: none"> 1. The outside area as shown on the plan of premises shall cease to be available for use by the public after 2300hrs in the evening. 2. During events where regulated entertainment is provided all doors and windows will be kept closed after 2300hrs every evening, except to allow for egress and ingress and in the event of an emergency. 3. No entry or re-entry to the premises will be permitted to members of the public after 2400hrs.
<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> <ol style="list-style-type: none"> 1. The following licensable activities; <ul style="list-style-type: none"> PART B – Films PART C – Indoor Sporting Events PART E – Live Music

	<p>PART F – Recorded Music PART G – Performance of a Dance PART I – Provision of Facilities for Making Music PART J – Provision of Facilities for Dancing PART L – Late Night Refreshment</p> <p>are not permitted to take place in the outdoors area of the premises as shown on the plan of the premises attached to the application.</p> <ol style="list-style-type: none"> 2. Discos and Karaoke will cease no later than 2400hrs 3. Discos and Karaoke will only be permitted to take place once a week on either a Friday or Saturday nights. 4. 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 requiring customers to leave the premises and the area quietly.
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</p>	<p>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 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</i></p>

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.*

8. Children and Licensed Premises

8.1 *The Council recognises the diversity of premises that will be licensed under the Act. The premises will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away shops, community halls and schools. Access by children to any premises will not be limited unless it is considered necessary for the prevention of physical, moral or psychological harm to them.*

8.2 *When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.*

9. The Prevention of Public Nuisance

9.1 *Licensed premises may have significant potential to impact*

	<p><i>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.</i></p> <p>10. Live Music, Dancing and Theatre</p> <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.