

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

Date of Hearing	Thursday 29 th September 2005
Members of Panel	J. Cunningham, L. McNamara and M. Muir.
Applicant(s) Name	Flagon Inn
Premises Address	The Gloucester Arms, Luton Road, Great Offley, Hertfordshire, SG5 3DG
Date of Application	Wednesday 27 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 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> <p>Monday to Wednesday 0800hrs to 2400hrs Thursday to Saturday 0800hrs to 0030hrs the following morning Sunday 0800hrs to 2400hrs</p> <p>These hours are to apply each day of the year with the exception of:</p> <ul style="list-style-type: none"> • Good Friday, Easter Saturday, Easter Sunday, Easter Monday • The Sunday of all Bank Holiday Weekends <p>On all these days the permitted hours will be from 1000hrs to 0030hrs the following morning</p> <p><u>AND</u></p> <p>On Christmas Eve the permitted hours will be from 1000hrs to 0130hrs the following morning.</p> <p><u>AND</u></p> <p>On New Year's Eve the permitted hours will be from 1000hrs to 0330hrs the following morning.</p>

2. LICENSABLE ACTIVITIES

The licensable activities applied for are:

- PART E – Live Music
- PART F – Recorded Music
- PART H – Anything of a similar description to E, F or G
- 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 E – Live Music

PART J – Provision of facilities for dancing

PART H – Anything of a similar description to E, F or G

Friday & Saturday 1900hrs to 2300hrs

For the avoidance of doubt these hours are to apply to Good Friday & Easter Saturday

AND

On Christmas Eve the permitted hours will be from 1900hrs to 0100hrs the following morning.

AND

On New Year's Eve the permitted hours will be from 1900hrs to 0300hrs the following morning.

PART F – Recorded Music

Friday & Saturday 1000hrs – 2300hrs

For the avoidance of doubt these hours are to apply to Good Friday & Easter Saturday

AND

On Christmas Eve the permitted hours will be from 1000hrs to 0100hrs the following morning.

AND

On New Year's Eve the permitted hours will be from 1000hrs to 0300hrs the following morning.

PART L – Late Night Refreshment

Monday to Wednesday 2300hrs to 2330hrs
Thursday to Saturday 2300hrs to 2400hrs
Sunday 2300hrs to 2330hrs

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

- Good Friday, Easter Saturday, Easter Sunday, Easter Monday
- The Sunday of all Bank Holiday Weekends

On all these days the permitted hours will be from 2300hrs to 2400hrs.

AND

On Christmas Eve the permitted hours will be from 2300hrs to 0100hrs the following morning.

AND

On New Year’s Eve the permitted hours will be from 2300hrs to 0300hrs the following morning.

PART M - Supply of Alcohol

Monday to Wednesday 1000hrs to 2330hrs
Thursday to Saturday 1000hrs to 2400hrs
Sunday 1000hrs to 2330hrs

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

- Good Friday, Easter Saturday, Easter Sunday, Easter Monday
- The Sunday of all Bank Holiday Weekends

On all these days the permitted hours will be from 1000hrs to 2400hrs.

AND

On Christmas Eve the permitted hours will be from 1000hrs to 0100hrs the following morning.

AND

On New Year’s Eve the permitted hours will be from 1000hrs to 0300hrs the following morning.

**CONDITIONS
DEEMED
NECESSARY FOR
THE PROMOTION
OF THE**

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

<p>LICENSING OBJECTIVES</p>	<p>a result of these representations.</p> <p>The following conditions are each 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. At all times the premises are open to the public either a duty manager or designated premises supervisor shall be present on the premises 2. During events where regulated entertainment is provided all doors and windows will be kept closed except to allow for egress and ingress and in the event of an emergency 3. There shall be placed at all entrances and exits from the premises in a place where they can be seen and easily read by the public notices requiring the customers to leave the premises and the area quietly 4. The licence holder or his or her representative shall conduct half-hourly assessments from outside a neighbouring residential property of the noise coming from the premises when the premises are being used for regulated entertainment and shall take steps to reduce the noise where it is likely to cause a disturbance to local residents 5. Where noise is created by taxis attending the premises and that noise is likely to cause a disturbance to local residents the licence holder or his or her representative will ask the taxi driver to turn off their vehicle until their customer is ready to leave
<p>RESTRICTIONS ON THE LICENSABLE HOURS FOR REGULATED ENTERTAINMENT</p>	<p>The Sub-Committee has restricted the hours the premises is permitted to be open to the public and provide the licensable activity of regulated entertainment on the following grounds:</p> <ol style="list-style-type: none"> 1. The Sub-Committee has received relevant representations that there is currently noise nuisance being caused to nearby residents by persons leaving the premises 2. The Sub-Committee is satisfied that granting the longer hours on the terms sought would cause a public nuisance and that that nuisance would be disproportionate and unreasonable on persons living and working in the vicinity 3. Given the proximity of the premises to the nearby residents the Sub-Committee is not satisfied that any conditions can be imposed, additional to those offered by the applicant, which will prevent this nuisance 4. The Sub-Committee considers that these restrictions on the opening hours and licensable activities are necessary to promote the licensing objective of the prevention of public nuisance
<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 will not be used at any time for the playing or performance of regulated entertainment.</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 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> <p>5. Licence Conditions</p> <p>5.1 <i>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.</i></p> <p>5.2 <i>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</i></p>

	<p><i>otherwise engaged in activities in the vicinity.</i></p> <p>9. The Prevention of Public Nuisance</p> <p>9.1 <i>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.</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.