

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

Date of Hearing	Monday 23 <sup>rd</sup> April 2007
Members of Panel	A. Bardett, D. J. Barnard and M. Muir
Applicant(s) Name	Eamon Phillips and Ian Phillips
Premises Address	Orchard and Anvil, 148 Nightingale Road, Hitchin, Hertfordshire. SG5 1QT
Date of Application	Monday 26 <sup>th</sup> February 2007
<b>APPLICATION FOR VARIATION</b>	<p>This is an application for variation of a Premises Licence under Section 34 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 decided to <u>approve the application</u> subject to the conditions and hours as are set out below.</p> <p><b>1. <u>OPENING HOURS</u></b></p> <p>The permitted opening hours are:</p> <p>Monday to Wednesday 1100hrs to 2430hrs the following morning  Thursday 1100hrs to 0130hrs the following morning  Friday and Saturday 1100hrs to 0200hrs the following morning  Sunday 1200hrs to 2315hrs</p> <p><b>2. <u>LICENSABLE ACTIVITIES</u></b></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> PART B – Films</li> <li>• <input type="checkbox"/> PART E – Live Music</li> <li>• <input type="checkbox"/> PART F – Recorded Music</li> <li>• <input type="checkbox"/> PART I – Provision of Facilities for Making Music (karaoke)</li> <li>• <input type="checkbox"/> PART J – Provision of Facilities for Dancing</li> <li>• <input type="checkbox"/> PART M – Supply of alcohol</li> </ul> <p>The hours during which the licensable activities may take place are:</p> <p><b>PART B – Film</b></p>

	<p><b>PART E – Live Music</b>  <b>PART F – Recorded Music</b>  <b>PART H – Provision of Facilities for Making Music (karaoke)</b>  <b>PART J – Provision of Facilities for Making Music</b>  <b>PART M – Supply of alcohol</b></p> <p>Monday to Wednesday 1100hrs to 2400hrs  Thursday 1100hrs to 0100hrs the following morning  Friday and Saturday 1100hrs to 0145hrs the following morning  Sunday 1200hrs to 2300hrs</p>
<p><b>CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES</b></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 conditions are each considered necessary by the Sub-Committee to promote the licensing objective of the prevention of public nuisance</p> <p>The condition is:</p> <ol style="list-style-type: none"> <li>1. The back door (fire exit) to the car park (as shown on the attached plan) should remain closed except for emergency evacuation</li> <li>2. Within 3 months the extractor fans to the exterior of the premises shall be fitted with suitable devices to limit the noise emanating from the premises</li> <li>3. Any log kept of noise assessments undertaken by the license holder or his representative shall be available to the Council or Police for inspection on written request</li> </ol>
<p><b>CONDITIONS PROPOSED BY APPLICANT</b></p>	<p>This licence will be subject to the conditions, that are consistent with the terms offered by the applicant in order to promote the four licensing objectives set out in Part P of their application (other than the proposed condition relating to re-entry to the public bar which was revised as below).</p> <p>Plus the conditions offered by the Applicant during the course of the hearing:</p> <ol style="list-style-type: none"> <li>1. The licence holder or his representative shall conduct regular assessments at the perimeter of the premises of the noise coming from the premises after 10pm on every occasion the premises are used for regulated entertainment and shall record the assessments undertaken in a log book</li> <li>2. The licence holder or his representative shall take steps to</li> </ol>

	<p>reduce the noise where the regular assessments of the noise at the perimeter demonstrate that the noise is likely to cause nuisance to local residents</p> <ol style="list-style-type: none"> <li>3. During events where regulated entertainment is provided all doors and windows will be kept closed after 10pm except to allow for access or ingress to the premises or in emergencies</li> <li>4. No re-entry to the premises after 2400hrs on Friday and Saturday night except to those persons using the smoking area</li> </ol> <p>Note: The licence holder is requested to agree the means of controlling entry to the premises under this condition with the Council's Licensing Officer</p>
<p><b>MANDATORY CONDITIONS</b></p>	<p>Mandatory conditions apply to this licence as a result of the variation sought to the licence</p>
<p><b>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</b></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><b>STATEMENT OF LICENSING POLICY</b></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><b>4. Regulating Licensing</b></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</i></p>

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.*

## **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,*

	<p><i>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.</i></p> <p>8.2 <i>When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.</i></p> <p><b>9. The Prevention of Public Nuisance</b></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> <p><b>10. Live Music, Dancing and Theatre</b></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>
<b>RATIONALE FOR DECISION</b>	The Sub-Committee believes that the licensing conditions proposed by the Licence holder will meet the licensing objectives of the prevention of public nuisance
<b>COMMENCEMENT DATE</b>	This licence will come into effect from the date of this decision.
<b>RIGHTS OF REVIEW</b>	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.