

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

Date of Hearing	Tuesday, 6 th November 2007														
Members of Panel	Councillors A. Bardett, T. Brindley & J. Cunningham														
Premises Licence Holder	Mr S. and Mrs N. Griffith														
Premises Address	Penthouse Nightclub, 3B Sun Street, Hitchin, Herts. SG5 1AE														
Date of Application	13 th September 2007														
REVIEW	<p>This is a Review of a Premises Licence under Section 51 of the Licensing Act 2003.</p> <p>The Sub-Committee has read the material presented to it and has 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>1. The Sub-Committee has agreed to modify the existing conditions as follows:</p> <p>1. <u>OPENING HOURS</u></p> <p>The permitted opening hours are:</p> <table> <tr> <td>Monday to Friday</td> <td>1200hrs to 0220hrs</td> </tr> <tr> <td>Saturday</td> <td>1200hrs to 0400hrs</td> </tr> <tr> <td>Sunday</td> <td>1200hrs to 0000hrs (12 Midnight)</td> </tr> </table> <p>The premises will retain its existing New Years Eve and New Years Day hours.</p> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>Hours of licensable activities granted are:</p> <p>PART E – Performance of Live Music</p> <table> <tr> <td>Monday to Friday</td> <td>1200hrs to 0200hrs</td> </tr> <tr> <td>Saturday</td> <td>1200hrs to 0340hrs</td> </tr> <tr> <td>Sunday</td> <td>1630hrs to 2340hrs</td> </tr> </table> <p>The premises will retain its existing New Years Eve and New Years Day hours.</p> <p>PART F – Playing of Recorded Music</p> <table> <tr> <td>Monday to Friday</td> <td>1200hrs to 0200hrs</td> </tr> </table>	Monday to Friday	1200hrs to 0220hrs	Saturday	1200hrs to 0400hrs	Sunday	1200hrs to 0000hrs (12 Midnight)	Monday to Friday	1200hrs to 0200hrs	Saturday	1200hrs to 0340hrs	Sunday	1630hrs to 2340hrs	Monday to Friday	1200hrs to 0200hrs
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Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART G – Performance of Dance

Monday to Friday 1200hrs to 0200hrs
Saturday 1200hrs to 0340hrs
Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART H – Entertainment Similar to Music or Dance

Monday to Friday 1200hrs to 0200hrs
Saturday 1200hrs to 0340hrs
Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART I – Entertainment Facilities for Making Music

Monday to Friday 1200hrs to 0200hrs
Saturday 1200hrs to 0340hrs
Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART J – Entertainment Facilities for Dancing

Monday to Friday 1200hrs to 0200hrs
Saturday 1200hrs to 0340hrs
Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART K – Similar to Facilities for Music/Dance

Monday to Friday 1200hrs to 0200hrs
Saturday 1200hrs to 0340hrs
Sunday 1630hrs to 2340hrs

The premises will retain its existing New Years Eve and New Years Day hours.

PART L – Provision of Late Night Refreshment

Monday to Friday 2300hrs to 0200hrs
Saturday 2300hrs to 0340hrs

	<p>Sunday 2300hrs to 2340hrs</p> <p>The premises will retain its existing New Years Eve and New Years Day hours.</p> <p>PART M - Supply of Alcohol</p> <p>Monday to Saturday 1200hrs to 0200hrs Sunday 1630hrs to 2340hrs</p> <p>The premises will retain its existing New Years Eve and New Years Day hours.</p> <p>(This will permit 20 minutes wind down time)</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 it considers 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 objectives of the prevention of public nuisance, the protection of children from harm and the prevention of crime and disorder</p> <p>The conditions are:</p> <ol style="list-style-type: none"> 1. The Premises Licence Holder shall agree a noise management plan with the Environmental Health Officer (Responsible Authority) within 3 months of this decision taking effect 2. No person shall become a member until 48 hours have elapsed following approval of their written application. No person shall be entitled to admission of the premises (other than as a guest of a member) until they have become a member. 3. No member may sign in any more than 3 guests on entry to the premises 4. The Premises Licence Holder shall adopt the Challenge 21 initiative (or similar initiative) and require proof of age from any person appearing to be under the age of 21 on sale of alcohol
<p>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</p>	<p>The following conditions (in substantially the same form) were recommended by Hertfordshire Constabulary and approved by Licence holder and the Sub-Committee:</p> <ol style="list-style-type: none"> 1. On every Friday and Saturday and all other dates where non-standard timings apply or special events are held, a minimum of three SIA approved Door Staff to be on duty at the premises

between the time of opening and time of closing to the public. During these times a minimum of two of these Door Staff will at all times be deployed at the entrance/exit to Sun Street to the premises. Special event in these conditions refers to any occasion when regulated entertainment is taking place at the premises which is advertised.

2. All Door Staff will comply with SIA requirements relating to the wearing of SIA registration badges and availability of registration documents and/or identification for inspection.

3. All Door Staff whilst deployed at the entrance/exit of the premises will wear high visibility clothing (reflective jackets/tabards).

4. Persons are not allowed to enter or exit the building with glasses or bottles or alcohol in any sealed or unsealed container. There will be an exception to this rule in the case of reasonable deliveries.

5. The Premises Licence Holder will ensure that the premises are equipped with a closed circuit television system, the recordings of which are of a standard that is to the satisfaction of Hertfordshire Constabulary. The CCTV system is to be maintained to the satisfaction of the Hertfordshire Constabulary.

6. The Premises Licence Holder will ensure that viewable copies of recordings from the CCTV system can immediately be provided to Police upon request. All recordings will be kept for a minimum of 28 days.

7. The Premises Licence Holder will ensure that the CCTV system adequately covers key and vulnerable parts of the premises, including the main entrance and exit. All other specific key and vulnerable areas to be agreed with Police during an on site meeting, to be held within 28 days of any Review Hearing.

8. The Premises Licence Holder shall ensure the Police Licensing Department at Hitchin Police Station and Local Authority Licensing Officer are notified on any occasion when the CCTV system is to be inoperative for a period in excess of one working day. The notice will include the measures being taken to ensure that the system is restored to the standard required by Hertfordshire Constabulary at the earliest opportunity.

9. The Designated Premises Supervisor shall nominate other persons who will deputise for them when absent. It will be a requirement that any nominated deputy is a Personal Licence Holder. The DPS will ensure that the identity of the deputy is known by all other staff at such times. The DPS or at least one deputy shall be present at all times when the premises are open to the public

10. The Designated Premises Supervisor will notify the Police Licensing Department at Hitchin Police Station when they expect to be absent from the premises between time of opening and time of closing to the public on any Friday or Saturday and all other days where non-standard timings apply or when special events are held.

They will give a minimum of two full working days notice, which on every occasion will be in writing and include the name, age and position held by a nominated deputy.

11. The Designated Premises Supervisor or Premises Licence Holder will notify the Police Licensing Department at Hitchin Police Station of their intention to hold a private party or entertain friends at their own expense. The notice will be in writing and give a minimum of seven full working days notice. The notice will on every occasion include the date and start and finish time of the event, the nature of the event and the approximate number of persons attending.

12. The Designated Premises Supervisor will be a member of any active local Pub Watch and attend Pub Watch meetings on a regular basis.

13. Each member will be issued with a membership card that will include the full name of each member and a unique membership reference number.

14. Upon becoming a member a Driving Licence, Passport or equivalent form of photographic identity will be produced for inspection by the Designated Premises Supervisor or a nominated deputy

15. The Designated Premises Supervisor will ensure that an up to date and indexed 'record of members' is maintained and kept on the premises. The record will include the full name and postal address of the member, membership number, the date membership commenced and a photocopy of the form of photographic identity produced at the time of becoming a member. Each entry will be timed and dated and signed by the DPS or a nominated deputy.

16. The Designated Premises Supervisor will ensure that an up to date 'members guests book' is maintained and kept on the premises. The book will include the full name of the member and the full name and full postal address of the guest. Each entry will be timed and dated and signed by the DPS or a nominated member of staff.

17. The members record and guests book will be maintained separately, and both will be made available without delay for inspection and copying when requested by a Police Officer or the Local Authority Licensing Officer.

18. The Designated Premises Supervisor or a nominated deputy will notify the Police Licensing Department at Hitchin Police Station of their intention to hold any special event or hire the premises out for a private party. The notice will be in writing and give a minimum of 28 days notice. The notice will on every occasion include the date and start and finish time of the special event or party, the nature of the special event or party and the approximate number of persons attending.

	<p>These conditions are considered <i>necessary</i> for the promotion of the licensing objectives, namely the prevention of crime and disorder and the protection of children from harm</p>
<p>EXISTING CONDITIONS ATTACHING TO THE LICENCE</p>	<p>This licence is already subject to conditions, which are to remain on the licence as being consistent with the four licensing objectives. These are the mandatory conditions, the embedded restrictions and the general conditions. The operating schedule conditions are replaced by the conditions contained within this decision notice</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 its decision. It has 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>

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 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*

	<p><i>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>
<p>RATIONALE FOR DECISION</p>	<p>The Sub-Committee made the decision to restrict the hours to ensure that a 20 minute time for winding down is permitted before the premises are closed.</p> <p>The conditions which were imposed in addition to those agreed during the hearing were necessary to ensure appropriate control of the premises during operating hours</p>
<p>COMMENCEMENT DATE</p>	<p>This licence will come into effect on expiry of the period for appealing the decision if no appeal is made. If an appeal is made the decision comes into effect following the determination of any appeal.</p>
<p>RIGHTS OF REVIEW</p>	<p>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.</p>