

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

Date of Hearing	Monday, 13 October 2008
Members of Panel	Councillors T. Brindley, P. Clark & M. Weeks
Premises Licence Holder	Mrs S.K. Brar
Premises Address	Shops to Go (aka Knebworth Village Wines), 150-152 London Road, Knebworth, Herts. SG3 6EY
Date of Application	20 August 2008
REVIEW	<p>This is a Review of a Premises Licence under Section 51 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> <ol style="list-style-type: none"> 1. The Sub-Committee consider that the Premises Licence should be suspended for a period of 3 months or until the three Conditions imposed by the Sub-committee at the Review Hearing are fully complied with. 2. At the expiry of the suspension period the Licence is subject to the conditions and hours as are set out below. <p>1. <u>OPENING HOURS</u></p> <p>The permitted opening hours will remain as: Monday to Sunday 0600hrs to 12 Midnight</p> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activities which form part of the licence are:</p> <ul style="list-style-type: none"> • PART M - Supply of alcohol <p>The hours during which the licensable activities may take place are:</p> <p>PART M - Supply of alcohol</p> <p>Monday to Sunday 0600hrs to 12 Midnight</p>
CONDITIONS DEEMED	The Sub-Committee recognises that conditions will <u>only</u> be imposed on a licence where conditions are necessary for the promotion of one

NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES IMPOSED BY THE SUB-COMMITTEE AT THE REVIEW HEARING

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.

The following conditions are each considered necessary by the Sub-Committee to promote the licensing objectives, namely the protection of children from harm and the prevention of crime and disorder.

The condition(s) are:

1. The DPS and the Premises Licence Holder to attend an Age Check Seminar approved by Hertfordshire Trading Standards. In the event that such Seminar is not organised or operated by Hertfordshire Trading Standards, approval of attendance at an alternative Age Check Seminar must be obtained in writing from Hertfordshire Trading Standards in advance.
2. The DPS and the Premises Licence Holder must provide their Personal Licence and a supporting photographic proof of identity such as passport or driving licence to the organiser of the Seminar as proof of attendance at the Seminar.
3. The DPS and the Premises Licence Holder must forward their proof of attendance at an appropriate Seminar to the Licensing Authority.

CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES

The following conditions as amended have been recommended by **Hertfordshire Constabulary**:

1. From and including 1 January 2009 no sale of alcohol to take place unless the Designated Premises Supervisor (DPS) or at least one Personal Licence Holder is on the Licensed premises.

This condition is considered necessary for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

2. The DPS and premises Licence Holder will implement a "Challenge 21" policy.

This condition is considered necessary for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

3. Staff will only accept a Driving Licence, passport or PASS accredited proof of age card when checking age and identification of persons believed to be under 21.

This condition is considered necessary for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

4. The DPS and premises Licence Holder will ensure signs are

displayed at prominent locations in the premises highlighting the “Challenge 21” and ID policy.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

5. The DPS and Premises Licence Holder will ensure that signs are displayed at prominent locations in the premises highlighting that sales of alcohol will not be made to persons under 18 years of age or persons purchasing alcohol on behalf of persons under 18 years of age.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

6. All signage that is required as a condition of the Premises Licence will be displayed where alcohol is on display, behind the sales counter and in the windows of the premises so as to be clearly visible from the outside.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

7. The DPS and Premises Licence Holder will ensure that a Refusals Book is maintained and kept at the premises at all times. In addition to recording attempted underage purchases a record will be made on each occasion an age check is requested.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

8. The Refusals Book will be made available for inspection upon request by Police Officers/PCSOs, Local Authority Licensing Officers and Trading Standards Officers.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

9. The DPS and Premises Licence Holder will train all staff in relation to the legislation governing underage sales, proxy purchasing and the “Challenge 21” and ID policy and the use of the Refusal Book.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

10. The DPS and Premises Licence Holder will ensure that written training records relating to staff in relation to all items referred to in Condition 9 above will be kept and made available for inspection

upon request by Police Officers, PCSOs, Local Authority Licensing Officers and Trading Standards Officers.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

11. The DPS and Premises Licence Holder will ensure that the Police are informed of any attempted underage purchases no later than 24 hours after any attempt has been made. The method of informing the Police to be agreed with the Police Licensing Officer within seven days of the Review Hearing.

This condition is considered **unnecessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

12. From and including 1 January 2009 the DPS 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.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

13. The DPS will ensure that the CCTV system adequately covers and is able to record activity on the shop floor and at the sales counter.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

14. The DPS will ensure that viewable and un-edited 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.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

15. The DPS or Premises Licence Holder shall notify the Police Licensing Department at Hitchin Police Station and Local Authority Licensing Officer, 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 the system is restored to the standard required by Hertfordshire Constabulary at the earliest opportunity.

This condition is considered **necessary** for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.

	<p>16. The DPS and Premises Licence Holder will be members of and participate in any existing Off-Licence Watch that is supported by the Police and Local Authority.</p> <p>This condition is considered <i>necessary</i> for the promotion of two of the four licensing objectives, namely for the protection of children from harm and the prevention of crime and disorder.</p>
<p>CONDITIONS PROPOSED BY PREMISES LICENCE HOLDER</p>	<p>This licence will be subject to the conditions, that are consistent with the terms offered by the Premises Licence Holder in order to promote the four licensing objectives set out in Part P of their application.</p> <p>None</p>
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO PREMISES LICENCE HOLDER</p>	<p>The Sub-Committee has been unable to explain to the Premises Licence Holder 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 due to then non-attendance at the Sub-Committee Hearing. The Premises Licence Holder will be made aware on notification of the sub-committee's decision.</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>The Council recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and, therefore, beyond the direct control of the licensee(s) or certificate holder(s) Beyond the vicinity of the premises, an individual who engages in anti-social behaviour is accountable under law in their own right. 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 on, or in the immediate vicinity of, the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.</i></p>

4.4 *The Council do not consider that the term “vicinity” can be generically defined and will consider it’s definition in the specific circumstances of each application. To be considered in the vicinity of a premises, an interested party must be able to demonstrate a causal link to activities on or in the immediate vicinity of the premises in relation to the licensing objectives. For example, an interested party may be able to hear music from the premises within their property or they may see patrons leaving the premises and causing a nuisance near their property.*

4.5 *The Council recognise that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those volunteered by the applicant as part of the operating schedule included in the application. In addition, there is no provision for a licensing authority itself to make representations. If no relevant representations are received in respect of an application, the licensing authority must issue the licence on the terms sought.*

5. Licence Conditions

5.1 *The Council recognise that each application must be considered on it’s own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions must be avoided and will only be lawful where they are deemed necessary to promote the licensing objectives in response to relevant representations.*

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.*

5.3 *Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council’s website at www.north-herts.gov.uk. The pool of model conditions relate to:*

- *the prevention of crime and disorder;*
- *public safety (including fire safety);*
- *the promotion of public safety in theatres, cinemas, concert halls and similar places;*

- the prevention of public nuisance; and
- the protection of children from harm.

5.4 Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.

7. Licensing Hours

7.1 The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large numbers of customers were required to leave 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. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. The Council recognise that arbitrary restrictions would undermine the principle of flexibility and should be avoided. The licensing objectives will be the paramount consideration at all times.

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.

7.3 The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary. In addition, the Council recognise that zoning of licensing hours would undermine the principle of determining each application on it's own merits.

7.4 With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to 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. The Council will not ordinarily seek to limit the 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.

8.3 Premises where concern for the protection of children may arise, include:

- premises where entertainment of an adult or sexual nature are commonly provided;
- premises where there is a strong element of gambling on the premises;
- premises where there is a known association with drug taking or dealing;
- premises where current staff members have been convicted for serving alcohol to minors;
- premises where there is evidence of underage drinking; and
- premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:

- a limit on the hours when children may be present;
- a limitation or exclusion when certain activities are taking place;
- the requirement to be accompanied by an adult;
- limited access to parts of the premises; and
- full exclusion of those people under 18 from the premises when any licensable activities are taking place.

8.5 Any licensed premises used for film exhibitions will be subject to conditions restricting children from viewing age restricted films in accordance with recommendations given by the British Board of Film Classification. Where a BBFC classification does not exist, the Council will classify the film in accordance with BBFC guidelines.

8.6 Conditions requiring the admission of children to premises cannot be attached to licences or certificates. Where no restriction or limitation is imposed the issue of access will remain a matter of discretion of the individual licensee or club or holder of a temporary event notice.

8.7 The Council recognises the Hertfordshire Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm.

8.8 The Council supports the Portman Group Code of Practice

	<p><i>on the naming, packaging and promotion of alcoholic drinks. Alcohol should be packaged and promoted in a socially responsible manner so as not to encourage drinking amongst those who are under 18 years old. A copy of the Code can be found at www.portman-group.co.uk.</i></p>
RATIONALE FOR DECISION	<p>The Sub-Committee has had regard to the evidence in the hearing and the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm. The Sub-Committee consider that the Premises Licence Holder has failed to have regard to the formal and informal warnings offered by the Police, and the decision reached today is therefore proportionate in all the circumstances. The Sub-Committee were concerned that the premises licence holder did not attend the hearing to address the concerns raised by the responsible authorities.</p>
COMMENCEMENT DATE	<p>This review decision will come into effect 21 days from the notification of this decision to the premises licence holder.</p>
RIGHTS OF REVIEW	<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> <p>A premises licence holder, responsible authority, or an interested party, such as a resident living in the vicinity of the premises may appeal to the Magistrates Court within 21 days beginning on the day the Review decision is notified to the premises licence holder.</p>