

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

Date of Hearing	Tuesday, 22 September 2009
Members of Panel	Councillors D. Barnard, P. Burt and M. Kirkland
Applicant(s) Name	Daniel Alder and Terry Barratt
Premises Address	Hitchin Football Club, Fishponds Road, Hitchin, Herts. SG5 1NU
Date of Application	27 July 2009
APPLICATION FOR VARIATION	<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 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 0600hrs to 0130hrs the following morning Friday to Saturday 0600hrs to 0200hrs the following morning Sunday 0600hrs to 12 Midnight</p> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none"> • PART C – Indoor Sporting Events • PART E – Live Music • PART F – Recorded Music • PART H – Anything of a Similar Nature – Parts E, F or G • PART J – Provision of Facilities for Dancing • PART K – Provision of Facilities for Entertainment of a Similar Description – Parts I or J • PART M - Supply of alcohol <p>The hours during which the licensable activities may take place are:</p> <p>PART C – Indoor Sporting Events</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p>

	<p>PART E – Live Music</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p> <p>PART F – Recorded Music</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p> <p>PART H – Anything of a Similar Nature – Parts E, F or G</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p> <p>PART J – Provision of Facilities for Dancing</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p> <p>PART K – Provision of Facilities for Entertainment of a Similar Description – Parts I or J</p> <p>Monday to Thursday 1000hrs to 0000hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</p> <p>PART M – Supply of Alcohol</p> <p>Monday to Thursday 1000hrs to 0100hrs Friday and Saturday 1000hrs to 0130hrs the following morning Sunday 1000hrs to 2330hrs</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>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</p>	<p>The following conditions, as amended, have been recommended by the NHDC Environmental Protection Service and are considered <u>necessary</u> for the promotion of one of the four licensing objectives, namely the prevention of public nuisance:</p> <ol style="list-style-type: none"> 1. An environmental noise control device of a type to be approved by the Environmental Protection Officer of North Hertfordshire District Council shall be installed in the premises, calibrated and set in accordance and agreement with an Environmental

Protection Officer of North Hertfordshire District Council. The device once set will be made available for inspection by an officer of the Environmental Protection Team, North Hertfordshire District Council at any reasonable time.

2. The environmental noise control device shall be secured in a robust lockable case or similar to prevent unauthorised access to and tampering with the controls.
3. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the DPS/Management and the controlling mechanism shall be operated from a part of the Premises not accessible to the public.
4. All amplifier equipment must be routed through the environmental noise control device and this device must be used during licensable activities.
5. A noise limitation or sound management device is installed to control the system to which all amplification equipment is fitted. This device will be regularly maintained to ensure that the noise produced within the premises will not exceed the limit agreed by the Environmental Protection Officer of North Hertfordshire District Council.
6. No regulated entertainment or music shall be played, relayed or amplified outside the premises at any time.
7. Only the Designated Premises Supervisor (D.P.S.) Premises License holder or their agent or a sound engineer is permitted to alter the settings on the environmental noise control device. Additionally, this will only take place in accordance with and at levels agreed by an Environmental Protection Officer of North Hertfordshire District Council.
8. None of the windows to the premises shall be open whilst regulated entertainment is taking place.
9. All the fire exit doors to the premises, shall remain closed whilst regulated entertainment is taking place, except in the case of an emergency.
10. Install audible or amber strobe alarm on all fire exit doors, which notifies the security staff when the doors are opened.
11. A senior member of staff (manager) will assess the impact of

	<p>any noise activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/ entertainment to ensure levels of noise have not increased, and will act within 10mins upon discovery.</p> <p>12. A diary of the noise assessments must be kept on site and made available to an Officer of the Council on request. The diary must contain the time the assessment was undertaken, the details of the person carrying out the assessment, the subjective observations and any remedial action undertaken to reduce the noise levels if any is needed, including the time this took place.</p> <p>13. Clearly visible signs must be placed prominently at all the exits. The signs must request patrons to leave quickly and quietly.</p> <p>14. A location for smoking to take place will be agreed with an Environmental Protection Officer of North Hertfordshire District Council.</p> <p>15. During functions held at the club, guests at such functions will not be permitted to take alcoholic and other drinks from the function room in open containers and no consumption of such is permitted in any external area. This condition does not apply to customers using the "members bar area", who are not attending a function.</p> <p>16. Regulated entertainment is not permitted after Midnight on Monday to Thursday, after 01:30 the following morning on Fridays and Saturdays and after 23:30 on Sundays.</p>
<p>CONDITIONS PROPOSED BY APPLICANT</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.</p> <p>Plus the following conditions agreed with the Police during the consultation period:</p> <p><u>Prevention of Crime and Disorder</u></p> <p>1. The Licence Holder and Designated Premises Supervisor 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.</p> <p>2. The Licence Holder and Designated Premises Supervisor will ensure that viewable and un-edited copies of recordings from the CCTV system can be provided to Police no later than 24 hours after request. All recordings will be kept for a minimum of 28 days.</p>

3. The Licence Holder and Designated Premises Supervisor will ensure that the CCTV System adequately covers key and vulnerable parts of the premises, including the entrance and exit to the bar and function room. All other specific key and vulnerable areas to be agreed with Police during an on-site meeting to be held within 28 days of the variation of the Premises Licence.
4. The Licence Holder and Designated Premises Supervisor will ensure that the CCTV System is maintained to the satisfaction of Hertfordshire Constabulary.
5. The Designated Premises Supervisor or Personal Licence Holder shall notify the Police Licensing Department at Stevenage Police Station 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.
6. On every occasion that adult entertainment, including semi nudity or full nudity, is provided, a minimum of four SIA Door Staff will be on duty at the premises between the hours of 21.00hrs and time of closing to the public, two of whom will be clearly visible at the main entrance to the function room at all times.
7. On every occasion that the function room is used to provide regulated entertainment, a minimum of two SIA Door Staff approved to be on duty at the premises between the hours of 21.00hrs and time of closing to the public.
8. 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.
9. All door staff employed at the entrance/exit of the premises will wear high visibility clothing (reflective jackets) during the hours of darkness.
10. The Designated Premises Supervisor shall nominate another person who will deputise for them when absent from the premises on any Friday or Saturday, Christmas Eve and New Year's Eve. It will be a requirement that the 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.

Protection of Children from Harm

11. On every occasion that adult entertainment, including semi nudity or full nudity, is provided, no person aged under 21 will be allowed access to the function room or be able to view the entertainment from any other part of the premises or from the exterior of the building.

	<p>12. With immediate effect, the DPS and Premises Licence Holder will implement a “Challenge 25” policy.</p> <p>13. Staff will only accept a Driving Licence Photo Card, Passport or PASS accredited card when checking age and identification of persons believed to be under 25.</p> <p>14. The DPS and Premises Licence Holder will ensure signs are displayed at prominent locations in the premises highlighting the “Challenge 25” and ID policy.</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>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> <p>4.4 <i>The Council do not consider that the term “vicinity” can be</i></p>

generically defined and will consider its 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 its 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:*

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

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 these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.

9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:

- sound proofing requirements;
- restrictions on times when music or other licensable activities may take place;
- technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- limiting the hours of regulated entertainment;
- limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters;
- or
- requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:

- effective and responsible management of the premises;
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
- management of arrangements for the collection and disposal of litter; and
- effective ventilation systems.

9.4 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. The Council are aware of the need to avoid unnecessary or disproportionate measures that could deter valuable community activities such as live music. Conditions

	<p><i>that are likely to be a significant financial burden will be avoided, where possible, for smaller venues.</i></p> <p>9.5 <i>The Council recognise that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. That said, the approach of the Council will be one of prevention and will consider each application on it's own merits.</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>10.4 <i>The Council will seek to encourage cultural and community events by licensing its own public spaces. The following public spaces are currently licensed for regulated entertainment:</i></p> <p><i>Butts Close, Hitchin</i> <i>Howard Gardens, Letchworth</i> <i>Broadway Gardens, Letchworth</i></p>
RATIONALE FOR DECISION	The Sub-Committee has considered the evidence presented to it, the Guidance and the Council's Statement of Licensing Policy and has made its decision after careful consideration in order to promote the licensing objective of the Prevention of Public Nuisance.
COMMENCEMENT DATE	This licence will come into effect from the date of this decision.
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.