

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

Date of Hearing	Friday, 25 September 2009
Members of Panel	Councillors T. Brindley, P. Burt and M. Kirkland
Premises Licence Holder	Mrs Shamona Hussain
Premises Address	S and S Off Licence, 30 Queen Street, Hitchin, Herts. SG4 9TP
Date of Application	7 August 2009
REVIEW	<p>This is an application for the 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 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 application is <u>approved</u> subject to the conditions and hours as are set out below.</p> <p><u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activity the subject of the Review is:</p> <ul style="list-style-type: none"> • PART M – Sale and Supply of alcohol (Off the premises) <p>Subject to agreement of relevant conditions recommended by Hertfordshire Constabulary, the hours during which the licensable activity may take place will remain as:</p> <p>PART M - Supply of alcohol</p> <p>Monday to Saturday 0800hrs to 2300hrs Sunday 1000hrs to 2230hrs</p> <p>These hours are to apply each day of the year with the exception of:</p> <ul style="list-style-type: none"> • Christmas Day, and • Good Friday <p>On Christmas Day, the permitted hours will be from 1200hrs to 1500hrs and 1900hrs to 2230 hours.</p> <p>On Good Friday the permitted hours will be from 0800hrs to 2230hrs.</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

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 condition is considered necessary for the promotion of two of the four licensing objectives, namely Prevention of Crime and Disorder and the Protection of Children from Harm:

1. Within 60 days the Premises Licence Holder and Designated Premises Supervisor shall attend an age check briefing agreed by Hertfordshire County Council Trading Standards and Hertfordshire Constabulary.

CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES

The following conditions, as amended, have been recommended by **Hertfordshire Constabulary** are considered necessary for the promotion of two of the four licensing objectives, namely Prevention of Crime and Disorder and the Protection of Children from Harm:

1. With immediate effect, the DPS and Premises Licence Holder will implement a "Challenge 25" or equivalent policy.
2. 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.
3. To promote the Validate UK PASS accredited ID Card and have application forms available to customers in the store.
4. The DPS and Premises Licence Holder will ensure that signs are displayed at prominent locations in the premises highlighting the "Challenge 25" or equivalent and ID policy.
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.
6. All signage that is required as a condition of the Premises Licence will be displayed where alcohol is on display, at the sales counter and in the windows of the premises so as to be clearly visible from the outside.
7. The DPS and Premises Licence Holder will instigate ongoing training for all staff in relation to the legislation governing underage sales, proxy purchasing and the "Challenge 25" or equivalent and ID policy and operation of CCTV.
8. The DPS and Premises Licence Holder will ensure that written training records relating to staff will be kept and made available for inspection upon request by Police Officers, PCSOs, Local Authority Licensing Officers and Trading Standards Officers.
9. 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 purchases, a record will be made on each occasion an age check is requested.

10. The Refusals Book will be made available for inspection upon request by Police Officers, PCSOs, Local Authority Licensing Officers and Trading Standards Officers.
11. The Licence Holder and DPS will ensure that the premises are equipped with a Closed Circuit Television (CCTV) system, the recordings of which are of a standard that is to the satisfaction of Hertfordshire Constabulary.
12. The Licence Holder and DPS 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.
13. The Licence Holder and DPS will ensure that the CCTV system adequately covers the front entrance, customer service point and alcohol display. The coverage will include a clear and uninterrupted view of the cashier and customer being served. The adequacy of coverage to be agreed with Police during an on-site meeting, to be held within 28 days of any Review Hearing.
14. The Licence Holder and DPS will ensure that the CCTV system is maintained to the satisfaction of Hertfordshire Constabulary.
15. 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 that the system is restored to the standard required by Hertfordshire Constabulary at the earliest opportunity.
16. The sale of alcohol for consumption off the premises will only be permitted after 18.00hrs on a Friday and Saturday if a Personal Licence Holder is on the premises.
17. The sale of alcohol for consumption off the premises will only be permitted after 18.00hrs on a Monday, Tuesday, Wednesday or Thursday if a Personal Licence Holder is on the premises or the sale is transacted by a staff member who has successfully completed the Level 1 Award in Responsible Alcohol retailing on the premises.
18. Persons are not allowed to enter or exit the premises with alcohol in any unsealed container.

The following condition has been recommended by **Hertfordshire County Council Trading Standards** is considered **necessary** for the promotion of two of the four licensing objectives, namely Prevention of Crime and Disorder and the Protection of Children from Harm:

	<p>19. There shall be no storage of non-UK duty paid tobacco products on the premises.</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 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.</i></p>

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:

	<ul style="list-style-type: none"> • 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. <p>8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p>RATIONALE FOR DECISION</p>	<p>The Sub-Committee has considered the evidence presented to it, the Guidance and the Council's Statement of Licensing Policy and has reached its decision in order to promote the licensing objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm. The Sub-Committee has only imposed conditions that it considers are proportionate and directed to the cause of the concern.</p>

COMMENCEMENT DATE	This licence will come into effect from the end of the period for appealing the decision or if the decision is appealed the point at which the appeal is dealt with by the Magistrates Court.
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.