

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

Date of Hearing	Wednesday, 13 November 2012
Members of Panel	Councillors D. Barnard, D. Chambers and G. Morris
Applicant(s) Name	Marston's PLC
Premises Address	Que Pasa, 31 Market Place, Hitchin, Herts. SG4 1DY
Date of Application	21 September 2012
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 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 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>Sunday to Thursday 0800hrs to 0030hrs the following morning Friday and Saturday 0800hrs to 0330hrs the following morning</p> <p>These hours are to apply each day of the year with the exception of:</p> <ul style="list-style-type: none"> • On Friday, Saturday and Monday of the Spring, May and August Bank Holiday weekends, Good Friday, Easter Saturday, Sunday and Monday, Christmas Eve and Boxing Day the premises shall be permitted to open until 0330hrs the following day; • On New Year's Eve, the premises will be permitted to open from 10:00hrs until the end of the standard permitted hours on New Year's Day; • On days when major national and international sporting events are held and those events take place outside of the standard permitted hours, the premises may provide the stated licensable activities during the hours that the premises are open to the public; and • On the evening British Summer time takes effect, the premises shall remain open until 04:00hrs (BST).

2. LICENSABLE ACTIVITIES

The licensable activities applied for are:

- PART B – Films
- PART C – Indoor Sporting Events
- PART E – Live Music
- PART F – Recorded Music
- PART G – Performance of a Dance
- PART I – Provision of Facilities for Making Music
- PART J – Provision of Facilities for Dancing
- PART L – Late Night Refreshment
- PART M - Supply of alcohol

The hours during which the licensable activities may take place are:

PART B – Films

PART C – Indoor Sporting Events

PART E – Live Music

PART F – Recorded Music

PART G – Performance of a Dance

PART I – Provision of Facilities for Making Music

PART J – Provision of Facilities for Dancing

Sunday to Thursday 12 Noon to 12 Midnight

Friday and Saturday 12 Noon to 0300hrs the following morning

When hours for the sale of alcohol are extended the above hours are also extended (see M below).

PART L- Late Night Refreshment

Sunday to Thursday 2300hrs to 12 Midnight

Friday and Saturday 2300hrs to 0300hrs the following morning

When hours for the sale of alcohol are extended the above hours are also extended (see M below).

PART M - Supply of alcohol

Sunday to Thursday 0900hrs to 12 Midnight

Friday and Saturday 0900hrs to 0300hrs the following morning

These hours are to apply each day of the year with the exception of:

- On Friday, Saturday and Monday of the Spring, May and August Bank Holiday weekends, Good Friday, Easter Saturday, Sunday and Monday, Christmas Eve and Boxing Day the premises shall be permitted to retail alcohol and provide regulated entertainments until 0300hrs the following day;

	<ul style="list-style-type: none"> • On New Year's Eve, the premises will be permitted to provide the stated licensable activities from 10:00hrs until the end of the standard permitted hours on permitted hours on New Year's Day; and • On days when major national and international sporting events are held and those events take place outside of the standard permitted hours, the premises may provide the stated licensable activities during the hours that the premises are open to the public.
<p>CONDITIONS DEEMED APPROPRIATE 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 appropriate 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 appropriate to impose conditions as a result of these representations.</p> <p>The following conditions are each considered appropriate by the Sub-Committee to promote the licensing objective of [state licensing objective]</p> <p>The condition(s) are:</p> <ol style="list-style-type: none"> 1. None
<p>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</p>	<p>The following condition has been agreed by the applicant following discussion with the Hertfordshire Constabulary and is considered appropriate for the promotion of one of the four licensing objectives, namely the prevention of public nuisance:</p> <ol style="list-style-type: none"> 1. Persons are not to be permitted entry or re-entry to the premises after 02:00 hours the following morning; this condition does not affect customers who are seeking re-entry after having left the premises solely in order to smoke.
<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:</p> <ol style="list-style-type: none"> 1. None
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</p>	<p>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>

STATUTORY GUIDANCE CONSIDERATIONS	<p>The Sub-Committee has taken into account the Guidance issued under section 182 of the Licensing Act 2003 (April 2012 version) in reaching its decision. It has found the following sections to be of particular relevance in reaching this decision:</p> <p>Paragraphs 1.17, 2.1, 2.33, 2.34, 2.35, 2.36, 2.37, 2.39, 2.40, 9.38, 10.20, 10.21 and 13.32</p>
LICENSING POLICY CONSIDERATIONS	<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>Paragraphs 5.1, 5.9, 9.1, 9.2, 9.3, 9.4, 9.5, 12.2 and 12.7</p>
RATIONALE FOR DECISION	<p>The Sub-Committee is content from the evidence heard that the applicant operates the premises in a reasonable manner, and heard assurances that they will continue to do so. This includes using door supervisors where appropriate.</p> <p>The Sub-Committee gave weight to the evidence heard that the premises has previously operated until 2am, and sometimes until 3am using Temporary Event Notices, without significant problems.</p> <p>In the absence of the sole objector, the Sub-Committee considered the written representation in full, in particular the point regarding an "increase in anti-social behaviour and noise nuisance". The Sub-Committee is of the view that the objection is stated in general terms and does not provide any evidence that it would be appropriate to reject or modify the application for the promotion of any of the licensing objectives.</p> <p>The Sub-Committee is satisfied that, in the absence of any representations from the Police and Environmental Health, there is insufficient evidence of public nuisance or crime and disorder being an issue in the grant of this application.</p>
COMMENCEMENT DATE	<p>This licence will come into effect from the date of this decision.</p>
RIGHTS OF REVIEW	<p>At any stage, following the grant of a premises licence, a responsible authority, such as the Police or any other person, likely to be affected by 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>