

# Public Document Pack

18 July 2017

Our Ref Licensing and Appeals Sub-  
Committee/3.8.17  
Your Ref.  
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To: Members of the Sub-Committee: Councillor David Barnard, Councillor Gerald Morris and Councillor Mike Rice.

You are invited to attend a

## **MEETING OF THE LICENSING AND APPEALS SUB-COMMITTEE**

to be held in the

**BROTHERHOOD HALL, GERON ROAD, LETCHWORTH  
GARDEN CITY**

On

**THURSDAY, 3 AUGUST, 2017 AT 7.00 PM**

Yours sincerely,



David Miley  
Democratic Services Manager

## **Agenda** **Part I**

<b>Item</b>		<b>Page</b>
<b>1.</b>	<b>HEARING PROCEDURE</b>	(Pages 1 - 2)
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**NORTH HERTFORDSHIRE DISTRICT COUNCIL  
LICENSING ACT 2003  
HEARING PROCEDURE**

<p>1. Chair's Welcome</p> <p>Introduction of:</p> <ul style="list-style-type: none"><li>• Councillors sitting on Sub-Committee (Sub-Committee);</li><li>• legal advisor;</li><li>• licensing officer;</li><li>• officers of responsible authorities;</li><li>• interested parties (objectors); and</li><li>• the Premises Licence Holder.</li></ul>	
<p>2. The Chair will outline the procedure for the hearing</p>	
<p>3. The Chair will ask the Legal Advisor to outline the matters for consideration during the course of the hearing</p>	

<p><u>The Licensing Officer's report</u></p> <p>4. The Chair will ask the Licensing Officer if they have anything to add to their report to the Sub-Committee</p> <p>5. The Chair will ask if there are any questions of fact of the Licensing Officer</p> <p>6. The Sub-Committee may ask questions of the Licensing Officer</p>	
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<p><u>The responsible authorities submit their case</u></p> <p>7. The Chair will ask the responsible authorities, in turn, to present their submissions to the Sub-Committee</p> <p>8. The Chair will ask if there are any questions of fact of the responsible authority</p> <p>9. The Sub-Committee may ask questions of the responsible authority</p> <p>The above process will be repeated if there is more than one responsible authority</p>	
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<p><u>The interested parties submit their case</u></p> <p>10. The Chair will ask the interested parties, in turn, to present their submissions to the Sub-Committee</p> <p>11. The Chair will ask if there are any questions of fact of the interested parties</p>	
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12. The Sub-Committee may ask questions of the interested parties	
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<u>The Premises Licence Holder's case</u> 13. The Chair will ask the Premises Licence Holder to present their case to the Sub-Committee 14. The Chair will ask if there are any questions of fact of the Premises Licence Holder 15. The Sub-Committee may ask questions of the Premises Licence Holder	
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<u>Closing statements</u> 16. The Licensing Officer may make final submissions to the Sub-Committee 17. The responsible authorities, in turn, may make final submissions to the Sub-Committee 18. The interested parties, in turn, may make final submissions to the Sub-Committee 19. The Premises Licence Holder may make final submissions to the Sub-Committee	
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<u>Conclusion</u> 20. The Legal Advisor will summarise any legal points that have arisen during the hearing and will answer any legal questions from the Sub-Committee. 21. The Sub-Committee will close the hearing and retire to make a decision. 22. Where possible, the Chair will announce the Sub-Committee's decision and will give reasons for the decision.	
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<b>LICENSING AND APPEALS SUB-COMMITTEE</b> <b>03 August 2017</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>
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## REPORT OF THE LICENSING OFFICER

### LICENSING ACT 2003

#### APPLICATION BY MALTHURST LIMITED FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF MRH JACKMANS, BALDOCK ROAD, LETCHWORTH GARDEN CITY, HERTFORDSHIRE, SG6 2EJ.

#### 1. BACKGROUND

- 1.1 The existing premises licence was granted by North Hertfordshire District Council, following a Licensing Sub-Committee hearing, on 26 August 2005.

A copy of the premises licence is attached as **Appendix A**

#### 2. APPLICATION

- 2.1 The application is for the variation of a premises licence under Section 34 of the Licensing Act 2003.

- 2.2 The licensable activities and hours applied are attached as **Appendix B**

- 2.3 During the consultation period the applicant amended the application to include the following operating schedule agreed with Hertfordshire Constabulary which should be considered as part of the application:

1. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:  
Induction training which must be completed and documented prior to the sale of alcohol by the staff member.  
Refresher/reinforcement training at intervals of no more than 6 months.  
Training records will be available for inspection by a police officer or other authorised officer on request

2. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:  
- Details of the time and date the refusal was made;  
- The identity of the staff member refusing the sale;  
- Details of the alcohol the person attempted to purchase.  
This book/register will be available for inspection by a police officer or other authorised officer on request.

3. An incident book/register shall be maintained to record:  
- All incidents of crime and disorder occurring at the premises  
- Details of occasions when the police are called to the premises  
This book/register will be available for inspection by a police officer or other authorised officer on request.

4. The entrance door to the shop will be closed to customers between the hours of 23:00 and 06:00. Any sales between these hours will be made through the night pay window.  
In addition the CCTV condition in the operating schedule is to be amended to require image retention of 28 days.

### 3. APPLICATION PROCESS

- 3.1 On 9 June 2017, Malthurst Ltd made an application for the variation of a Premises Licence.
- 3.2 The application was received electronically so copies were served by the Council to Hertfordshire Constabulary and the responsible authorities.
- 3.3 A public notice was displayed on the premises in accordance with the requirements of the Licensing Act 2003 and was exhibited for a period of not less than twenty-eight (28) days.
- 3.4 A newspaper advertisement was placed in The Comet in accordance with the Act.

### 4. REPRESENTATIONS

- 4.1 No representation was received from Hertfordshire Constabulary.
- 4.2 No representations were received from any other Responsible Authority.
- 4.3 Two (2) representations were received from Other Persons and are attached as **Appendix C**.
- 4.4 The Council's Scheme of Delegation in respect of the Licensing Act 2003 requires the Licensing Officer to determine whether a representation is relevant as specified by the Act.
- 4.5 Where representations include paragraphs that are not relevant to the Licensing Act 2003, these paragraphs have been clearly crossed through and marked as 'not relevant' by the Licensing Manager and should not be considered as part of the determination process. **Other Persons must not refer to these paragraphs in any oral presentation at the hearing.**
- 4.6 As the licensing officer determined that the representations were relevant; it is for the Sub-Committee to determine what weight to apportion to the representation.
- 4.7 The Applicant has been served with a copy of the representations as part of this report.
- 4.8 The Applicant and other persons have been invited to attend the hearing to present their respective cases. They have been advised that they may be legally represented and of the Committee Hearing procedure.

### 5. OBSERVATIONS

- 5.1 In determining this application, the Sub-Committee must have regard to the representations and take such steps, as it considers appropriate for the promotion of the Licensing Objectives.
- 5.2 In making its decision, the Licensing and Appeals Sub-Committee must act with a view to promoting the Licensing Objectives. It must also have regard to the Licensing Authority's Statement of Licensing Policy and National Guidance.
- 5.3 The Licensing and Appeals Sub-Committee has the following options when issuing the Decision Notice:
- i) Grant the application as made
  - ii) Grant the application with amended timings and/or licensable activities
  - iii) Grant the application (as made or as amended) with conditions  
(conditions should only be added where appropriate to promote the licensing objectives)
  - iv) Refuse the application.

## 6. LICENSING POLICY CONSIDERATIONS

- 6.1 The following paragraphs from the Council's Statement of Licensing Policy 2011 may be relevant to this application. This section does not prevent the Sub-Committee from considering other paragraphs of the Statement of Licensing Policy where they deem it appropriate.

*B6*

*Our vision is:*

***"To ensure that North Hertfordshire continues to offer a diverse range of well managed entertainment venues and community and cultural activities within a safe and enjoyable environment."***

*B7*

*The Council is committed to the continued promotion of the diverse cultural and community activities within the district and providing a safe and sustainable night-time economy for residents and visitors alike. Licensing Policy will be approached with a view to encouraging new and innovative forms of entertainment that promote this vision and are consistent with the four licensing objectives.*

*B8*

*The Council encourages greater live music, dance, theatre and other forms of entertainment for the benefit of the community. Where activities require a licence, the Council will seek to balance the potential for disturbance of local residents and businesses against the wider community and cultural benefits.*

*B9*

*In making a balanced decision, the Council accepts that those living in town centre environments are likely to experience a degree of disturbance associated with a vibrant night-time economy but this must be managed in such a way to limit its impact beyond that which is reasonable. The Council will at all times consider the wider benefits to and impacts on the community as a whole and will take a proportionate view on the weight to apply to representations.*

*D2.1*

*Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State, relevant legislation and to the individual circumstances of the particular application. The Council may depart from the Policy where the individual circumstances of any application merit such a decision in the*

*interests of the promotion of the Licensing Objectives. Full reasons will be given for decisions taken by the Council when undertaking its licensing functions.*

#### *D2.9*

*The Council will carry out its licensing functions in the promotion of the licensing objectives and, in addition, will support the stated aims of the Act which are as follows:*

- (i) Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- (ii) giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*
- (iii) recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;*
- (iv) Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and*
- (v) Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.*

#### *D6.2*

*The Council recognises 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. A standardised approach to imposing conditions must be avoided and conditions will only be lawful where they are deemed appropriate to promote the licensing objectives in response to relevant representations.*

#### *D6.3*

*Conditions will only be imposed when they are appropriate 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 or the surrounding areas of the premises, places or events. Conditions are likely to be focused towards the direct impact of those activities on persons living in, working in or visiting areas affected by, or likely to be affected by, those activities.*

#### *E3.1.1*

*Licensed premises may have significant potential to impact adversely on communities through public nuisance that arises 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 matters arising at licensed premises impact on those living, working or otherwise engaged in activities in the locality. Ordinarily, the Council's Environmental Protection & Housing Team, in their role as a responsible authority, would take the lead in respect of nuisance issues.*

#### *E3.1.3*

*The Council recognises that conditions relating to noise nuisance may not be appropriate in certain circumstances where the provisions of other legislation (for example, the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005) adequately protect those living in the areas surrounding the premises. That said, the approach of the Council will be one of prevention and it will consider each application on its own merits, having due regard to the avoidance of duplication balanced against the effectiveness or otherwise of the other legislative provisions.*



*E3.9.1*

*The Council is fully aware of the nuisance that can be caused by poorly managed or inappropriately located premises, however will seek to strike an appropriate balance with its vision of promoting a diverse and vibrant night-time economy.*

*E3.9.2*

*The provision of well-managed and controlled entertainment will be encouraged to promote the vision; however the potential disturbance to residents and businesses will need to have been adequately considered by applicants as part of their operating schedule*

*E3.9.3*

*Should disturbance from licensed premises become unreasonable, any review proceedings will seek to impose suitable control measures in the first instance. Should control measures prove ineffective or are deemed inappropriate then the restriction of licensable activity timings, removal of licensable activities, suspension or revocation of the licence will be seriously considered.*

*F5.1*

*Planning and licensing are two entirely separate processes and neither authority is bound by a decision of the other. Planning is predominately a decision about what the premises can be used for in relation to local amenity, whilst licensing is predominately a decision about what activities can be provided and how that premises is managed.*

*F5.2 The Council must ensure that any licensing decision is restricted to addressing the four licensing objectives and is not simply a re-run of the planning process.*

*F8.1*

*The Council acknowledges that conditions cannot be imposed on an authorisation where it would be either impracticable or impossible for the licence holder to comply with such conditions when customers have left the premises and are beyond the control of the licence holder.*

*F8.2*

*That said, if behaviour of customers beyond the control of the licence holder can be causally linked to a specific premises and it is causing crime and disorder or a nuisance it is wrong to assume that the Act cannot address this; section 4 of the Act gives the Council a positive duty to deal with it proportionately. Whilst conditions would be inappropriate in these scenarios, the Council is strongly of the view that activities and/or operating times of an authorisation should be restricted, or an authorisation refused or revoked, where appropriate for the promotion of the licensing objectives.*

## **7. RELEVANT EXTRACTS OF STATUTORY GUIDANCE**

7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (October 2012) may be relevant to this application. This section does not prevent the Sub-Committee from considering other paragraphs of the Guidance where they deem it appropriate.

*1.3*

*The licensing objectives are:*

- The prevention of crime and disorder;*
- Public safety;*
- The prevention of public nuisance; and*
- The protection of children from harm.*

#### 1.4

*Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.*

#### 1.16

*Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:*

- must be appropriate for the promotion of the licensing objectives;*
- must be precise and enforceable;*
- must be unambiguous and clear in what they intend to achieve;*
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- should not replicate offences set out in the 2003 Act or other legislation;*
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);*
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- should be written in a prescriptive format.*

#### 1.17

*Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.*

#### 2.15

*The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*

#### 2.16

*Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

#### 2.18

*As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those*

*living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.*

#### **2.20**

*Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.*

#### **2.21**

*Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

#### **9.42**

*Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.*

#### **9.43**

*The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

#### **9.44**

*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

#### **10.8**

*The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.*

10.9

*It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.*

10.10

*The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.*

## **8. LICENSING OFFICER COMMENTS**

- 8.1 The comments within this section of the report are provided by the Licensing Officer to assist the Sub-Committee with the interpretation of the Act, the Guidance and existing case law. It is for the Sub-Committee to determine what weight they attach to this advice.

### **Definition of 'appropriate'**

- 8.2 The previous Statutory Guidance first issued in July 2004 and subsequently updated up until April 2012, specifically required Licensing Sub-Committees to ensure that their decisions were based on measures that were 'necessary' for the promotion of the licensing objectives. This placed a burden on the licensing authority to demonstrate that no lesser steps would satisfy the promotion of the licensing objectives and any conditions imposed on a licence would only be those necessary for the promotion of the licensing objectives with no opportunity to go any further.
- 8.3 The revised Statutory Guidance issued on 25<sup>th</sup> April 2012 and subsequently amended in October 2012, June 2013, October 2014, March 2015 and April 2017 has amended the 'necessary' test to one of 'appropriate'. This has changed the threshold which licensing authorities must consider when determining applications by requiring that they make decisions which are 'appropriate' for the promotion of the licensing objectives
- 8.4 The Guidance explains 'appropriate' as:

9.43

*The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

9.44

*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable*

*to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

8.5 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.39 and 9.40 of the Guidance. The Sub-Committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.40 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.

8.6 This approach, of allowing the courts to provide clarity, is reflected in the following paragraphs of the Guidance:

*1.9*

*Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.*

*1.10*

*Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.*

8.7 The Sub-Committee should also be aware that their decision must be proportionate to the evidence received in respect of the application and representation. Proportionality is a key factor in assisting with the definition of 'appropriate'.

**Case Law**

8.8 As paragraph 2.33 of the Guidance confirms, public nuisance under the Licensing Act 2003 has a wide interpretation and it is for the Sub-Committee to determine, based on the evidence, whether they consider these issues to be a public nuisance.

8.9 The Guidance states at paragraph 2.24 that conditions relating to public nuisance beyond the vicinity of the premises are not appropriate and the

Council's Statement of Licensing Policy supports that view. Conditions that it would be either impracticable or impossible for the licence holder to control would clearly be inappropriate.

- 8.10 That said, if behaviour beyond the premises can be clearly linked to a premises and it is causing a public nuisance, it is wrong to say that the Licensing Act 2003 cannot address this. Whilst conditions may well be inappropriate, if the evidence deems it necessary, times and/or activities under the licence could be restricted or, indeed, the application could be refused.
- 8.11 The magistrates court case of *Kouttis v London Borough of Enfield*, 9th September 2011 considered this issue.
- 8.12 In a summary of the case provided by the Institute of Licensing it is reported that District Judge Daber considered an appeal against a decision of the local authority to restrict the hours of musical entertainment of a public house to mitigate the noise from patrons as they left the premises in response to representations from local residents. The appellant relied on the sections of the Guidance that state that "beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right" (para 2.38). It was also suggested that, given that certain residents were not disturbed, this did not amount to public nuisance within the meaning of para 2.33 of the Guidance as approved by Burton J in the Hope and Glory case.
- 8.13 The District Judge held that there was ample evidence of public nuisance, and that section 4 of the Act gave the licensing authority a positive duty to deal with it proportionately. In this case, no less interventionist way of dealing with the nuisance had been suggested. He held that not only was the authority not wrong, but that it was in fact right to reduce the hours as it had. The appeal was therefore dismissed.
- 8.14 As this was a decision of the Magistrates Court it would not be binding on other courts, however, it could be considered as persuasive.

## **9. Appendices**

- 9.1 Appendix A Current premises licence  
9.2 Appendix B The licensable activities and hours applied for in the variation  
9.3 Appendix C Representation from other persons

## **10. CONTACT OFFICERS**

- 10.1 Colin Broadhurst  
Licensing Officer  
01462 474381

# Appendix A

Licensing Act 2003

**Premises Licence No: LICPR/14326/05**

MRH Jackmans  
Jackmans Service Station, Baldock Road, Letchworth Garden City, SG6 2EJ


Authorised Licensable Activities

Section J - Sale or Supply of Alcohol (Off the Premises)

Premises Licence Holder

Malthurst Limited  
Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH  
Registered Number: 03445529

Designated Premises Supervisor

Mauooran Sivapatham  


Personal Licence No: PA0829  
Issued by: East Hertfordshire District Council

Signed on behalf of the Licensing Authority

Date Granted: 26 August 2005

Date Revised: 26 May 2016

.....  
Authorised Officer



**Licensable Activities**

Section J - Sale or Supply of Alcohol (Off the Premises)

Monday	08:00hrs - 23:00hrs
Tuesday	08:00hrs - 23:00hrs
Wednesday	08:00hrs - 23:00hrs
Thursday	08:00hrs - 23:00hrs
Friday	08:00hrs - 23:00hrs
Saturday	08:00hrs - 23:00hrs
Sunday	08:00hrs - 23:00hrs

**Hours Premises Open to the Public**

This licence places no restriction on the hours the premises may open to the public for non-licensable activities

## Licence Conditions

### Mandatory Conditions

- 1) No supply of alcohol may be made under this licence:
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3) The admission of children, that is persons under eighteen (18) years of age, to the exhibition of any film shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or by the Licensing Authority.
- 4) Any one or more individuals at the premises for the purpose of carrying out a security activity (an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 applies and which is licensable conduct for the purposes of that Act) must:
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
- (5)
  - (a) The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
  - (b) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (c) The policy must require individuals who appear to the responsible person to be under eighteen (18) years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
    - (i) a holographic mark; or
    - (ii) an ultraviolet feature.
- (6) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

In this condition:

- (a) "permitted price" is the price found by applying the formula

$$P = D + (D \times V)$$

where:

- (i) "P" is the permitted price;
  - (ii) "D" is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and
  - (iii) "V" is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:
- (i) the holder of the premises licence;
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enable the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of fourteen (14) days beginning on the second day.

**"Responsible person" means the holder of the premises licence, the designated premises supervisor, or any other person over the age of eighteen (18) years who has been authorised to sell alcohol at the licensed premises.**

### **Embedded Restrictions**

- 1) This licence is subject to all embedded restrictions on the use of the premises under:

The Children and Young Persons Act 1933;  
The Cinematograph (Safety) Regulations 1955;  
The Licensing Act 1964; and  
The Sporting Events (Control of Alcohol) Act 1985.

The restrictions will not be attached, however, where:

- (a) The licensing authority has specified that they will be excluded;
- (b) They are inconsistent with any condition offered by the applicant in the operating schedule;
- (c) They are duplicative of existing statutory provisions; or
- (d) They restrict the conditions attached by the licensing authority.

### **General Conditions**

- 1) All of the standard conditions attached to the existing licence(s) will be attached to the premises licence. The conditions will not be attached, however, where:
- (a) The licensing authority has specified that they will be excluded;
  - (b) They are inconsistent with any condition offered by the applicant in the operating schedule;
  - (c) They are duplicative of existing statutory provisions; or
  - (d) They restrict the conditions attached by the licensing authority.
- 2) This licence is issued without prejudice to any other statutory requirements of North Hertfordshire District Council.

### **Operating Schedule Conditions**

- a) **General - all four licensing objectives (b, c, d, e)**

None

- b) **The prevention of crime and disorder**

- (i) The premises licence holder will ensure that a closed circuit television (CCTV) system will be maintained which is fit for the purpose. The system will incorporate a camera covering the entrance door and be capable of providing an image which is regarded as identification standard.
- (ii) The premises licence holder will ensure that the CCTV system will incorporate a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of one (1) calendar month. A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.

- (iii) The premises licence holder will ensure that the CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
  - (iv) The precise position of the cameras and any subsequent changes must be agreed with the police from time to time.
- c) Public safety**
- None
- d) The prevention of public nuisance**
- (i) The premises licence holder will ensure that waste receptacles for use by customers shall be provided in and immediately outside the premises.
- e) The protection of children from harm**
- (i) The premises licence holder will ensure that all staff will be trained to request evidence of age from any person seeking to buy alcohol and appearing to the member of staff to be under the age of eighteen (18). Such evidence is to be of a photographic nature such as a passport or photographic driving licence until other effective identification technology, such as thumbprint or pupil recognition, is introduced.

**Conditions attached at a Hearing**

- 1) The license holder shall use its best endeavours to ensure that alcohol is not consumed on the premises, including all areas, both internal and external, within the site boundary.

# Appendix B



\* required information

### Section 1 of 17

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

CVE/28715/119/RPB

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

\* First name

Malthurst Limited

\* Family name

Malthurst Limited

\* E-mail

[REDACTED]

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader  
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

Is the applicant's business registered in the UK with Companies House?

Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

03445529

Business name

Malthurst Limited

If the applicant's business is registered, use its registered name.

VAT number

- N/A

Put "none" if the applicant is not registered for VAT.

Legal status

Private Limited Company

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

An agent that is a business or organisation, including a sole trader

A sole trader is a business owned by one person without any special legal structure.

A private individual acting as an agent

**Agent Business**

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status



Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 17**

**APPLICATION DETAILS**

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

\* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Premises Contact Details**

Telephone number

Continued from previous page...

Non-domestic rateable  
value of premises (£)

29,500

### Section 3 of 17

#### VARIATION

Do you want the proposed  
variation to have effect as  
soon as possible?

Yes  No

Do you want the proposed variation to have effect in relation to the  
introduction of the late night levy?

Yes  No

You do not have to pay a fee if the only  
purpose of the variation for which you are  
applying is to avoid becoming liable to the  
late night levy.

If your proposed variation  
would mean that 5,000 or  
more people are expected to  
attend the premises at any  
one time, state the number  
expected to attend

#### Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

A petrol forecourt store selling a range of groceries, household products and alcohol, situated on Baldock Road, Letchworth Garden City, SG6 2EJ.

1. To extend the hours for the sale of alcohol to between the hours of 0000 and 2400 daily.
2. To include the provision of late night refreshment between the hours of 2300 and 0500 daily.
3. To remove all the embedded restrictions attached to the premises licence.
4. To remove all the conditions from the premises licence under the headings 'Operating Schedule Conditions' and 'Conditions attached at a Hearing'.
5. To include on the premises licence the conditions in boxes b to e of Section 16 of the application.
6. To make alterations to the premises.

### Section 4 of 17

#### PROVISION OF PLAYS

Will the schedule to provide plays be subject to change if this application to  
vary is successful?

Yes  No

### Section 5 of 17

#### PROVISION OF FILMS

Will the schedule to provide films be subject to change if this application to  
vary is successful?

Continued from previous page...

Yes

No

**Section 6 of 17**

**PROVISION OF INDOOR SPORTING EVENTS**

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes

No

**Section 7 of 17**

**PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS**

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes

No

**Section 8 of 17**

**PROVISION OF LIVE MUSIC**

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes

No

**Section 9 of 17**

**PROVISION OF RECORDED MUSIC**

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes

No

**Section 10 of 17**

**PROVISION OF PERFORMANCES OF DANCE**

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes

No

**Section 11 of 17**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes

No

**Section 12 of 17**

**PROVISION OF LATE NIGHT REFRESHMENT**

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes

No

Continued from previous page...

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors       Outdoors       Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations.

For example (but not exclusively) where the activity will be on additional days during the summer months.

Continued from previous page...

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

**Section 13 of 17**

**SUPPLY OF ALCOHOL**

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

- Yes                       No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption?

- On the premises       Off the premises       Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

**Section 14 of 17**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

The premises sells alcohol and other age restricted products.

**Section 15 of 17**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

*Continued from previous page...*

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

1. The hours for the sale of alcohol are currently restricted as follows:

Monday to Sunday: 0800 to 2300

2. The embedded restrictions.

3. All the conditions under the heading 'Operating Schedule Conditions'.

4. The condition under the heading 'Conditions attached at a Hearing'.

The above restrictions and conditions would be removed as a consequence of the proposed variation.

I have enclosed the premises licence

I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

## Section 16 of 17

### LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

b) The prevention of crime and disorder

1. A digital CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded digitally on to CD/DVD or other equivalent medium.
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 14 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
4. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.



Continued from previous page...

c) Public safety

The premises licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police.

d) The prevention of public nuisance

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

e) The protection of children from harm

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

**Section 17 of 17**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card. Variation Fees are determined by the non-domestic rateable value of the premises. If the licence only covers a part of a bigger premises, the rateable value for the whole of the premises will apply unless the licence area has been issued with its own rateable value.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number of persons in attendance at any one time. This attendance number includes all staff and performers.

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

190.00

Continued from previous page...

## DECLARATION

\* I/we understand it is an offence under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application. The offence is liable, on summary conviction, to a fine up to level 5 on the standard scale.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/north-hertfordshire/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

## OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

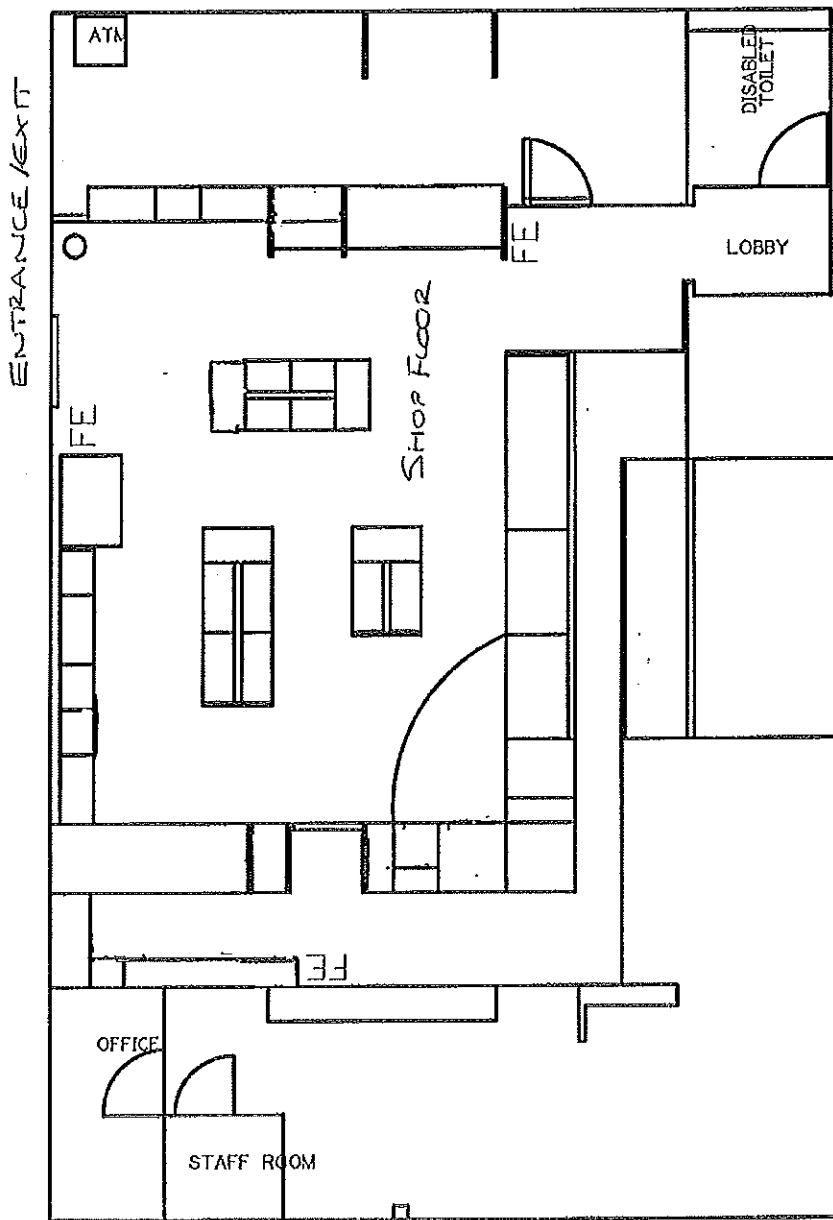
Approval deadline

Error message

Is Digitally signed

< Previous [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) Next >

MRH BP JACKMAN'S - PREMISES VARIATION DRAWING



KEY  
FE — FIRE EXTINGUISHER  
SHOP SIZE: 126 SQUARE  
METERAGE

Ref 28715/119 dated May 2017

THE ENTIRE PREMISES MAY BE USED FOR  
THE SALE OF ALCOHOL AND THE PROVISION  
OF LATE NIGHT REFRESHMENT

# Appendix C

no chf

201 Baldock Road  
Letchworth Garden City  
Hertfordshire  
SG6 2EJ

Licensing  
North Herts District Council  
Council Offices  
Gernon Road  
Letchworth Garden City  
Hertfordshire  
SG6 3JF



7<sup>th</sup> July 2017

Dear Sirs

This application to vary premises license at Jackmans Service Station has been brought to my attention by my neighbour at 203 Baldock Road.

I wish to lodge an official objection to this application.

I enclose a copy of the public notice for this application as I am unable to find any reference on your website.

I wrote objecting to the previous planning application reference 17/00474/1 on 26<sup>th</sup> March 2017 the contents of that letter are reproduced here.

I feel that the proposed 24 hour opening of the BP Filling Station on the corner of Baldock Road/Radburn Way would have a detrimental effect on our quality of living during the proposed additional opening hours on several counts :-

1. Additional noise during the only quiet period we currently enjoy. As the noise survey points out, there is only a low level of background noise during these hours and the additional traffic on/off the forecourt will inevitably be noticeable during these hours of relative quietness, thus disturbing sleep.
2. During these relatively quiet periods, sudden sharp loud noises such as the slamming of car doors will carry quite noticeably over the 30 or so metres from the forecourt to our bedroom windows.
3. ~~We already experience the use of the forecourt public address system before the PFS opens at 0700, and it is clearly audible. Inevitably this, during the period of relative quiet, would be just as audible if not more so as it would not be hidden in the increased background noise at that time.~~ NOT RELEVANT
4. It seems to be the norm for passengers in cars to use the car's horn to attract the attention of those making their way to the shop. Any use of the vehicles horn during the quiet period will inevitable cause disturbance to sleep.
5. During the warmer times of the year, when it is common to sleep with bedroom windows open, any additional noise will have an even greater disturbance value than when the windows are closed.
6. We suffer from more than enough light pollution during the evenings which decreases noticeable when the forecourt lights are turned off. If this PFS is allowed to open through the night, then we would be subjected to an increase in the light pollution we currently have.
7. ~~According to the noise survey, on the day in question, there were a total of 8 vehicles using the PFS in the hour between 2200 and 2300. This appears to me~~ NOT RELEVANT

to be insufficient trade to warrant 24 hour operation, unless there is an intention to attract additional traffic to the forecourt which would make my points in 1 to 5 above even more of concern.

NOT RELEVANT

Since this PES is in a completely residential location, I do not believe it is a suitable place to permit 24 hour operation.

There are five 24 hour filling stations within 3 miles of this location, all of which are situated at a distance from residential areas. So my question is whether we really need this one.

NOT RELEVANT

With regard to the proposed 24 hour sale of alcohol on these premises, I feel that this will further encourage rowdy and anti social behaviour compounding the issues raised above.

I sincerely hope that my concerns are taken into account when consideration is given to this application.

Yours faithfully



Mr S J Donaldson

Ms Deane

Orchard House  
203 Baldock Road  
Letchworth Garden City  
Hertfordshire  
SG6 2 EJ



Tuesday 4<sup>th</sup> July 2017

Reference CVE/28715/119/RPB

Dear Sir/Madam,

We are writing in regards to the application to vary premises licence by Malthurst Limited for the Jackman's service station which is located on the adjacent plot to our home.

We wish to strongly object to this application as we have with planning application 17/00474/1 for removal of Condition 4, to enable 24 hour trading. We are still awaiting the decision for this

application however the Case Officer (Ms M Tyler) has verbally stated that she plans to recommend that this application is refused. It should also be noted that the Environmental Health office carried

out an assessment in response to this application and provided a report dated 27<sup>th</sup> March 2017 which concluded that the proposed 24 hours use of the service station would result in a significant impact on the living conditions of the occupiers of nearby residential properties arising from the sporadic noise associated with extended hours of use. It was therefore recommended that the

planning application for extension of existing opening hours be refused. If this planning application is approved, we along with other local resident's plan to appeal the decision.

Applying for permission to vary the premises licence to enable the sale of alcohol 24/7 along with the installation of a night payment window seems incredibly presumptuous when they have not yet achieved consent for 24 hour trading. It demonstrates a disregard for due process and respect for their neighbours. Our letter of objection to application 17/00474/1 is appended for reference as the concerns outlined within it are equally relevant for the application to vary premises licence.

A withdrawn application from 2005 which sought to extend hours for 24 trading and to enable the sale of alcohol until 5am has provided evidence pertinent to these recent applications. Many of the issues experienced and highlighted through residents' objection letters at that time continue to persist almost twelve years on. The issues outlined are the same as those we have outlined in our objection letter to application 17/00474/1 dated 23<sup>rd</sup> March 2017 (see appendix) We can provide photocopies of the objection letters from 2005 if required, examples include consistent misuse of the loud speak system, gathering area for groups of teenagers and anti-social behaviour. It is a reasonable assumption that the granting of a licence to sell alcohol beyond the current hours of 8am to 11pm will increase noise levels and anti-social behaviour in the area when considering the attraction for those who would wish to purchase alcohol at anti-social hours.

A recent incident which took place on Friday 30<sup>th</sup> June 2017 seen a customer climb upon a fixed metal equipment box belonging to the service station to peer over the boundary wall and hurl expletives at us was met with a lack of apathy by the owner Mr Felix Rajan. When approached, he

stated that "it was out of his control" and that "he was not responsible for what people do on the premises". We are in the process of lodging a formal complaint about this incident with the parent company and the council, however we have included it within this letter as it clearly demonstrates an unwillingness to take responsibility for incidents that occur on site. It is a reasonable concern that customers under the influence of alcohol may cause issues on site which would not be managed effectively. Mr Felix Rajan was also unhelpful when asked for details of the complaints procedure which again demonstrates a lack of respect from his neighbours.

We are also concerned that many residents will be unaware of this application and therefore will miss the opportunity to raise an objection. Many residents refuse to use the service station and are unlikely to have seen the notification, a single A4 document cello taped to a large bright branding sign.

NOT RELEVANT

We hope that our letter provides you with relevant information to enable your decision making process however if you require further assistance please don't hesitate to get in contact.

Yours sincerely

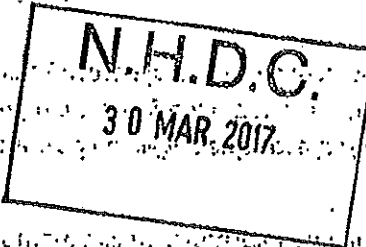
A large black rectangular redaction box covers the signature area, obscuring the names of the signatories.

Joleen & Scott Warren



no clp ✓

Orchard House  
203 Baldock Road  
Letchworth Garden City  
Hertfordshire  
SG6 2EJ



Thursday 23rd March 2017

For the attention of Ms M Tyler, Case Officer

Dear Ms Tyler,

Ref: Planning Application No. 17/00474/1

Proposed removal of Condition 4: Hours of operation previously from 7am to 11pm to change in order to allow 24 hour trading on the site Jackman Service Station, Baldock Road, Letchworth Garden City, SG6 2EJ by MRH Limited c/o agent Mr Alastair Bledowski

We write in connection with the above planning application. We have examined the plans and know the site well as we live in the adjacent property. We wish to object strongly to the removal of condition 4 of the existing planning consent attained in 2002 to allow 24 hour trading in this location.

We believe that this application directly conflicts with the National Planning Policy Framework objectives to mitigate and reduce to a minimum adverse impacts arising from noise and to seek positive improvements in people's quality of life.

As the world's first garden city, Letchworth Garden City was designed to combine the best of 'town and country' living. The legacy of the garden city movement is a reality, this town is a happy place to live and has certainly improved the quality of our lives. When we purchased our home two years ago we considered the potential impact of a commercial neighbour. This included consulting the original planning consent documentation where we noted a number of conditions 'to safeguard the residential amenities of occupiers of adjoining nearby properties'. The reasoning behind the original conditions (see application ref: 02/01291/1 - December 2002) have not changed. NOT RELEVANT

We are opposed to the planning application as we believe that there will be a detrimental impact upon local people and environment:

1. The applicant indicates that there is demand for 24 hour trading. **What evidence is there to support this?** There are existing petrol stations with 24 hour trading conditions nearby:
  - Esso - Ikneild way - 5 min drive 1.3 miles away (located in a non-residential area)
  - Tesco Baldock - 7 min drive 1.7 miles away
  - Shell - Baldock services - 10 mins 3.3 miles away

There are also a number of petrol stations nearby which do not currently have 24 hour trading conditions and are arguably in less residential areas. NOT RELEVANT

2. The introduction of 24 Hour trading will cause further noise disturbance for local residents. The applicant has submitted an accompanying noise assessment report which concludes that the change in opening hours of the forecourt would not give rise to any disturbance or loss of amenity to local residents, and would comply with the requirements of the NPPF. However the measurement of noise levels taken overnight are for a closed station and therefore should not be used as conclusive evidence

*Perhaps a more appropriate way of evaluating this proposal would be by carrying out an independent assessment at the other already existing 24 hour petrol stations located nearby?*

NOT RELEVANT

We already experience issues relating to noise during the existing hours of business:

- loud heavy vehicles making deliveries including audible reverse warning signals
- Revving from Cars/motorbikes (particularly those with extra loud exhausts)
- car alarms set off by accident
- loud music playing through open car windows/doors

➤ tyre pressure machine beeping when in use, on one occasion the machine was out of order and beeped continuously for hours/days on end before it was fixed.

➤ loud speaker system is constantly used by staff to speak to customers sometimes inappropriately

➤ clink of petrol nozzles

➤ flickering and humming canopy light for approximately two weeks before fixed

➤ young drivers congregating out of hours, revving engines and loud music

➤ General laughing, loud talking/shouting

NOT RELEVANT

We accept that many of these issues are not within the control of the staff at the petrol station and therefore consequently have not made formal complaints to either the council or the management team for the service. However we have on a number of occasions made contact with members of staff about issues which are within their control such as the inappropriate use of the loud speaker system and on the occasion when the tyre pressure machine was malfunctioning and causing a continuous beeping noise.

The boundary wall is approximately 3 meters away from our master bedroom window, one occupant of this room suffers from a documented medical sleep disorder, the other commutes to London for work and goes to bed early. We also sleep with windows ajar most of the year round and are concerned that an increase in hours for the petrol station will cause further disturbance.

3. We are also concerned about the impact on the local environment and already experience issues with pollution:

- We regularly collect discarded rubbish from the hedging at the front of our property, from the tree line which runs along the boundary wall and that collects in at the driveway entrance. The litter is very clearly as a result of the petrol station, examples include plastic gloves which are provided at the petrol pumps, Costa coffee cups and a variety of food wrappers/plastic drinks containers.

➤ Since the original planning consent was given in December 2002 the Baldock by-pass was opened in March 2006. We understand that the introduction of the bypass has dramatically reduced through traffic, in particular, heavy vehicles on the Baldock road. This change has improved the quality of life for local residents. Introduction of 24 hour trading at this location has the potential to increase traffic overnight which

NOT RELEVANT

may include heavy vehicles. *Can a traffic assessment be carried out to understand the potential impact?*

- Longer opening hours will result in an increase in the light spillage from the site to the surrounding residential properties.
- Provision of access to the shop during the night may attract more young drivers, which might vary from year to year depending on local demographics and the weather.

NOT RELEVANT

4. The cost of fuel added to the level of taxation on it means that profit margins on fuel are as little as 2 to 3p a litre. Supplying just petrol to a motorist paying by credit card means that the petrol station can lose money on the transaction due to card charges, and so it is vital that a petrol station has an attached shop where a retail operation can generate a decent profit. The average forecourt shop of over 50 m<sup>2</sup> now turns over close to £400,000 per year. It is therefore likely that the applicant is seeking to increase profits through the extension of trading hours. Whilst we understand that it is important to support economic growth, this should not be to the detriment of quality of life for local residents and the environment. Location is important to a petrol station's earnings. Main road locations with a sizeable shop can generate considerable turnover, it is unfortunate that this petrol station is not ideally located residing on a B road, in a residential area with existing 24 hour amenities within close proximity. *The petrol station currently sells alcohol, if extending trading hours are granted will this extend to sales of alcohol?*



NOT RELEVANT

We are aware that there have been a number of applications to change the trading hours at the nearby Letchworth Gate Service station which have not been successful. The most recent appeal noted that it was dismissed because of the effect on the living conditions of neighbouring residents with regard to noise. The Inspector concluded that the proposal would conflict with the amenity requirements of the Framework. (Appeal Ref: APP/X1925/A/14/2227807 - 30<sup>th</sup> Jan 2015) The Jackmans Petrol station in a more residential area than the Letchworth Gate station.

NOT RELEVANT

If this application is to be decided by councillors, please take this as notice that we would like to speak at the meeting of the committee at which this application is expected to be decided. Please let us know the date of the meeting as soon as possible.

Yours Faithfully

Joleen & Scott Warren

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