

# Public Document Pack

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### LICENSING AND APPEALS SUB-COMMITTEE

MEETING HELD IN THE LOWER HALL, ICKNIELD CENTRE, ICKNIELD WAY,  
LETCWORTH GARDEN CITY ON MONDAY, 13TH NOVEMBER, 2017 AT 7.00 PM

#### MINUTES

**Present:** *Councillors David Barnard (Chairman), Gerald Morris and Mike Rice.*

**In Attendance:**

*Steve Cobb (Licensing Manager), James Ellis (Legal Advisor) and Ian Gourlay (Committee and Member Services Manager)  
Rory Cosgrove (NHDC Environmental Protection)  
Sgt. Sammy Doak (Hertfordshire Constabulary)  
PC Shaun Deal (Hertfordshire Constabulary)  
Mr David Plant (Premises Licence Holder)  
Mr Herbie Nyathi (Designated Premises Supervisor)  
Ms Jodie Cannon (Objector)  
Mr Roger Marshall (Objector)*

**Also Present:**

*2 members of the public.*

#### 13 HEARING PROCEDURE

The Hearing Procedure was noted.

#### 14 REVIEW OF A PREMISES LICENCE IN RESPECT OF KHOI KHOI BAR AND VINO, 31 HITCHIN STREET, BALDOCK, HERTS. SG7 6AQ

The report of the Licensing Officer was noted.

#### 15 DECISION NOTICE

**RESOLVED:** That the conditions on the Premises Licence be modified, for the reasons set out in the attached Decision Notice.

The meeting closed at 9.52 pm

Chairman at the meeting on  
Monday, 13 November 2017

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

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
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| Date of Hearing                 | Monday, 13 November 2017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Members of Panel                | Councillors D. Barnard, G. Morris and M. Rice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Premises Licence Holder(s) Name | Mr David Charles Plant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Premises Address                | Khoi Khoi Bar and Vino, 31 Hitchin Street, Baldock                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Date of Application             | 18 September 2017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| <b>APPLICATION FOR REVIEW</b>   | <p>This is an application for a review of a Premises Licence under Section 51 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>The Sub-Committee has decided to:</p> <ol style="list-style-type: none"> <li>1. Modify the conditions of the premises licence as follows.</li> </ol> <p><b>1. <u>OPENING HOURS</u></b></p> <p>There are no restrictions on the hours the premises may be open to the public for non-licensable activities by virtue of this premises licence.</p> <p><b>2. <u>LICENSABLE ACTIVITIES</u></b></p> <p><b>Part E – Live Music (Indoors)</b></p> <table> <tr> <td>Monday to Wednesday</td> <td>Not applicable</td> </tr> <tr> <td>Thursday</td> <td>1800hrs to 2100hrs</td> </tr> <tr> <td>Friday and Saturday</td> <td>2030hrs to 2300hrs</td> </tr> <tr> <td>Sunday</td> <td>1800hrs to 2200hrs</td> </tr> </table> <p><b>Part F – Recorded Music (Indoors)</b></p> <table> <tr> <td>Monday to Saturday</td> <td>1100hrs to 2300hrs</td> </tr> <tr> <td>Sunday</td> <td>1100hrs to 2230hrs</td> </tr> </table> <p><b>Part F – Anything of a similar description to that falling within Parts E, F or G (Indoors)</b></p> <table> <tr> <td>Monday to Wednesday</td> <td>Not applicable</td> </tr> <tr> <td>Thursday</td> <td>1900hrs to 2130hrs</td> </tr> <tr> <td>Friday and Saturday</td> <td>Not applicable</td> </tr> <tr> <td>Sunday</td> <td>1800hrs to 2130hrs</td> </tr> </table> | Monday to Wednesday | Not applicable | Thursday | 1800hrs to 2100hrs | Friday and Saturday | 2030hrs to 2300hrs | Sunday | 1800hrs to 2200hrs | Monday to Saturday | 1100hrs to 2300hrs | Sunday | 1100hrs to 2230hrs | Monday to Wednesday | Not applicable | Thursday | 1900hrs to 2130hrs | Friday and Saturday | Not applicable | Sunday | 1800hrs to 2130hrs |
| Monday to Wednesday             | Not applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Thursday                        | 1800hrs to 2100hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Friday and Saturday             | 2030hrs to 2300hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Sunday                          | 1800hrs to 2200hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Monday to Saturday              | 1100hrs to 2300hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Sunday                          | 1100hrs to 2230hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Monday to Wednesday             | Not applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Thursday                        | 1900hrs to 2130hrs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
| Friday and Saturday             | Not applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                     |                |          |                    |                     |                    |        |                    |                    |                    |        |                    |                     |                |          |                    |                     |                |        |                    |
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|                                                                                           | <p><b>Part J – Supply of alcohol</b></p> <p>Monday to Saturday      1000hrs to 2300hrs<br/> Sunday                              1000hrs to 2230hrs</p> <p>These hours are to apply each day of the year with the exception of:</p> <p>Christmas Day<br/> On this day the permitted hours will be 1200hrs to 1500hrs and 1900hrs to 2230hrs</p> <p>Good Friday<br/> On this day the permitted hours will be 1000hrs to 2230hrs</p> <p>New Years Eve and New Years Day<br/> On these days the hours will be extended from the standard terminal hour on New Years Eve until the start of standard permitted opening hour on New Year's Day.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>CONDITIONS DEEMED APPROPRIATE FOR THE PROMOTION OF THE LICENSING OBJECTIVES</b></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"> <li>1. Music not to be played outdoors at any time. Section 177A of the Licensing Act 2003 does not apply to this condition. Section 177A of the Licensing Act 2003 does not apply to this condition</li> <li>2. Live music (indoors only) with a maximum of two performers at any one time can only to be played on Thursday between 1800 and 2100 or Friday or Saturday between 2030 and 2300 or Sunday between 1800 and 2200 only one performance to be permitted per week, be it amplified or acoustic. Section 177A of the Licensing Act 2003 does not apply to this condition</li> <li>3. Improved insulation shall be agreed between the resident above and the licence holder, and installed by the premises licence holder.</li> <li>4. The plan for the premises to be amended in line with the attached revised plan.</li> </ol> |

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| <p><b>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</b></p> | <p>The following recommendation and conditions have been recommended by <b>NHDC Environmental Protection</b> and are 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"> <li>1. Recorded music using external equipment (constituting regulated entertainment) shall only take place between 1900hrs and 2200hrs, Section 177A of the Licensing Act 2003 does not apply to this condition.</li> <li>2. Live music (constituting regulated entertainment) which is acoustic shall only take place on one (1) day per calendar week. Section 177A of the Licensing Act 2003 does not apply to this condition.</li> <li>3. Live music or recorded music using external equipment (both constituting regulated entertainment) shall not take place on consecutive days. Section 177A of the Licensing Act 2003 does not apply to this condition.</li> <li>4. All windows and doors at the premises shall remain closed when live music or recorded music using external equipment (both constituting regulated entertainment) is taking place except for ingress, egress and in case of emergency. Section 177A of the Licensing Act 2003 does not apply to this condition.</li> <li>5. A suitable environmental noise control device shall be installed in the premises, calibrated and set to the satisfaction of the Council's Noise Control Officer. The device must be set at an appropriate time in the presence of the aforementioned Officer. No recorded music using in-house equipment (constituting regulated entertainment) shall take place until this device has been installed and set in accordance with this condition. Section 177A of the Licensing Act 2003 does not apply to this condition.</li> <li>6. Once the environmental noise control device has been installed, calibrated and set to the satisfaction of the Council's Noise Control Officer it must not be removed, adjusted or replaced:       <ol style="list-style-type: none"> <li>(a) without twenty-eight (28) days prior notification to the Council's Noise Control Officer; and</li> <li>(b) without the written consent that the removal, adjustment or replacement of the device is permitted and that documentation stating this is received from the Council's Noise Control Officer.</li> </ol> </li> <li>7. Following the receipt of the documentation stated in Condition 6(b), all the requirements of the Council's Noise Control Officer must be carried out. Use of all in-house equipment for recorded music (constituting regulated entertainment) taking place is not permitted until such time that the premises licence holder has received confirmation from the Council's Noise Control Officer that it is permitted. Section 177A of the Licensing Act 2003 does not apply to this condition.</li> </ol> |
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8. In the event of a malfunction of the environmental noise control device, the Council's Noise Control Officer shall be notified within two (2) working days of the problem and the remedial action proposed. No recorded music using in-house equipment (constituting regulated entertainment) shall take place until the environmental noise control device is properly functioning and, if appropriate, has been reset, calibrated and set to the satisfaction of the Council's Noise Control Officer and/or the Council's Noise Control Officer has received and approved the necessary documentation confirming this. Section 177A of the Licensing Act 2003 does not apply to this condition.

9. The environmental noise control device shall be secured in a manner approved by the Council's Noise Control Officer so as to prevent unauthorised access to and tampering with the controls.

10. All in-house equipment used for recorded music constituting regulated entertainment taking place must be routed through the environmental noise control device and this device must be operational during such licensable activities. Section 177A of the Licensing Act 2003 does not apply to this condition.

The following conditions have been recommended by **Hertfordshire Constabulary** and are considered appropriate for the promotion of one of the four licensing objectives, namely the prevention of crime and disorder and prevention of public nuisance.

1. On Monday, Tuesday, Wednesday, Thursday, Friday and Saturday the hours the premises will be open to the public will be from 1000hrs to 2330hrs.

2. On Sunday the hours the premises will be open to the public will be from 1000hrs to 2300hrs.

3. The DPS/Premises Licence Holder will ensure that no customers shall remain on the licensed premises, except for a drinking up period of 30 minutes following the termination of the licensable activities.

4. The DPS/Premises Licence Holder will ensure that all customers are made aware during last orders that drinking up time is 30 minutes and will be asked to leave straight after this time.

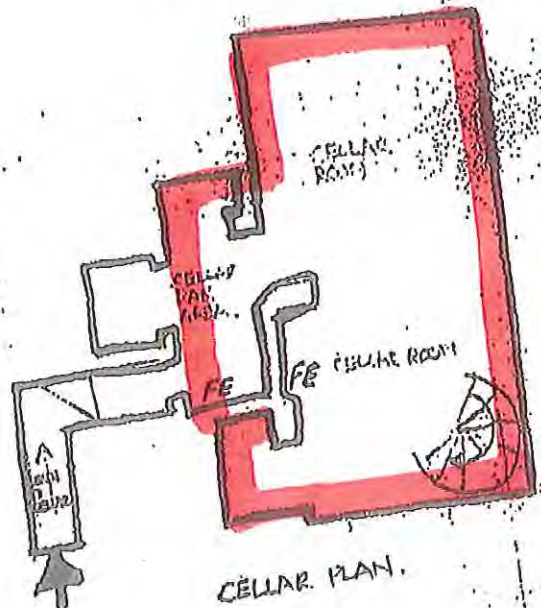
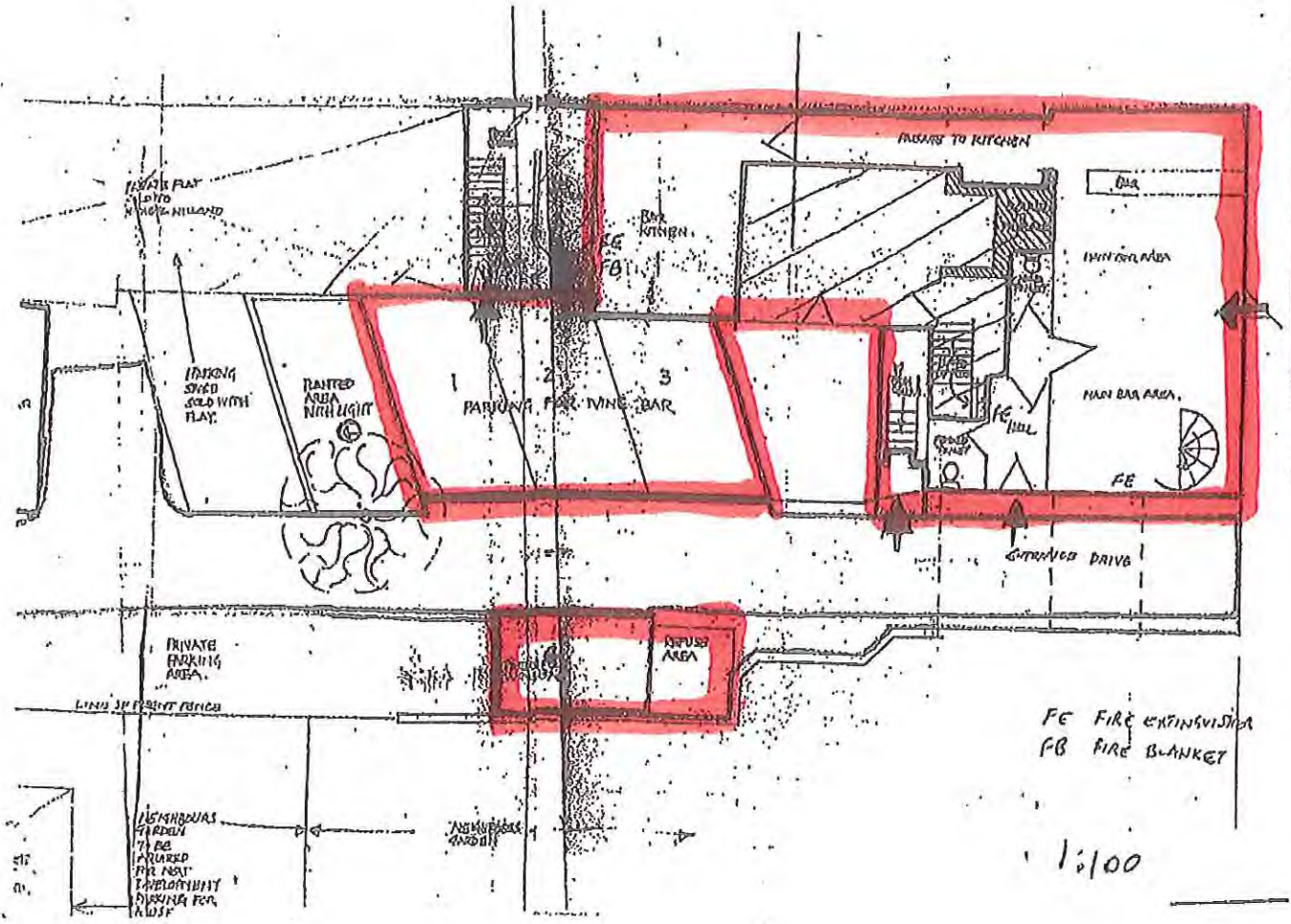
5. The DPS/Premises Licence Holder will ensure that both the DPS and staff are aware of the operating hours.

6. The DPS/Premises Licence Holder will ensure that all staff, including family members that are working at the premises are trained on the licensing legislation, including knowledge of operating hours.

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|                                                                                  | <p>7. The DPS/Premises Licence Holder will ensure that written training records relating to staff will be kept and made available for inspection upon request by the Police Licensing Officer, Police Officers, Police Community Support Officers and the Local Authority Licensing Officer.</p> <p>8. The DPS/Premises Licence Holder will nominate other persons who will deputise for the DPS/Premises Licence Holder when he/she are absent from the premises. The DPS/Premises Licence Holder will ensure that any nominated deputy is a personal licence holder. The DPS will ensure that the identity of the deputy is known by all other staff at such times.</p> <p>9. The DPS/Premises Licence Holder or at least one nominated deputy will be present at all times when the premises are open to the public.</p> <p>10. The DPS/Premises Licence Holder will ensure that there are prominent, clear and legible notices displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and the area quickly.</p> |
| <p><b>CONDITIONS PROPOSED BY APPLICANT</b></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.</p> <p>Plus:</p> <p>1. No discos or karaoke to be permitted at any time.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</b></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 an unlimited fine or up to six months imprisonment or both.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>STATUTORY GUIDANCE CONSIDERATIONS</b></p>                                  | <p>The Sub-Committee has taken into account the Guidance issued under Section 182 of the Licensing Act 2003 (April 2017 version) in reaching its decision. It has found the following sections to be of particular relevance in reaching this decision:</p> <p><b>Sections 1.17, 2.1, 2.15, 2.16, 2.17, 2.18, 2.19, 2.21, 9.12, 9.42,10.10, 10.28, 10.35, 11.1, 11.17, 11.18, 11.19, 11.20, 11.21, 11.22, 11.23, 13.10, 16.55 and 16.56</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| <b>LICENSING<br/>POLICY<br/>CONSIDERATIONS</b> | <p>The Sub-Committee has taken into account the North Hertfordshire District Council's Statement of Licensing Policy in reaching its decision. They have found the following sections to be of particular relevance in reaching this decision.</p> <p><b>Sections B6, B7, B8, B9, D2.1, D2.9, D6.2, D6.3, D7.3, D7.4, D11.1, D11.5, D11.9, E3.1.1, E3.2.1, E3.2.2, E3.2.3, E3.3.1, E3.9.1, E3.9.2 and E3.9.3</b></p>                                                                                                                                                                                                                                                                  |
| <b>RATIONALE FOR<br/>DECISION</b>              | <ol style="list-style-type: none"> <li>1. The Sub-Committee felt it was apparent from the representations that unregulated music both inside and outside the premises was causing a nuisance to residents, and it was therefore appropriate to remove the deregulation of music contained within Section 177A of the Licensing Act 2003.</li> <li>2. In including the aforementioned conditions, the Sub-Committee was confident that they were an appropriate and proportionate response to address the causes of concern that instigated the review.</li> </ol>                                                                                                                     |
| <b>COMMENCEMENT<br/>DATE</b>                   | <p>This decision 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 has been dealt with by the Magistrates' Court.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>RIGHTS OF<br/>REVIEW</b>                    | <p>At any stage, following the grant of a premises licence, a responsible authority, such as the Police, or any other person, 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. This application for review considered by this Sub-Committee does not preclude parties from applying for a further review.</p> |





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