

# Public Document Pack

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### LICENSING AND APPEALS SUB-COMMITTEE

**MEETING HELD AS A VIRTUAL MEETING  
ON WEDNESDAY, 6TH JANUARY, 2021 AT 10.00 AM**

#### MINUTES

**Present:** *Councillors: Elizabeth Dennis-Harburg (Chair), Daniel Allen, Gerald Morris and Ian Albert was present as the non-voting observer reserve Councillor*

**In Attendance:** *Teresa Campion (Litigation & Planning Enforcement Lawyer), Steve Cobb (Licensing Manager), Jasmine Jennings (Assistant Licensing Officer), Anna Gouveia (Committee, Member and Scrutiny Officer) and Matthew Hepburn (Committee, Member and Scrutiny Officer)*

**Also Present:** *At the commencement of the meeting approximately 12 members of the public, including registered speakers.*

#### **1 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY**

The Chair welcomed everyone to the Licensing and Appeals Sub-Committee meeting.

The Committee, Member and Scrutiny Officer undertook a roll call to ensure all those present could hear and be heard and drew attention to the Remote/Partly Remote Meetings Protocol which was noted.

#### **2 HEARING PROCEDURE**

The Hearing Procedure as detailed in the agenda was noted.

#### **3 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF THE ORANGE TREE PH, NORTON ROAD, BALDOCK, HERTFORDSHIRE, SG7 5AW**

The Licensing Manager presented the report entitled Application for the Review of a Premises Licence in respect of The Orange Tree PH, Norton Road, Baldock, Hertfordshire, SG7 5AW.

The report, together with verbal submissions and questions from the Applicant, Premises Licence Holder and Other Persons and advice from the Legal Advisor were considered.

The report of the Licensing Officer was noted.

#### **4 DECISION NOTICE**

The Decision Notice is attached.

The meeting closed at 2.22 pm

Chair

This page is intentionally left blank

## Decision Notice

Date of Hearing	Wednesday 6 <sup>th</sup> January 2021
Members of Panel	Councillors D. Allen, E. Dennis-Harburg, G Morris
Premises Licence Holder(s) Name	Greene King Retailing Limited
Premises Address	The Orange Tree Public House, Norton Road, Baldock, Hertfordshire SG7 5AW
Date of Application	20 <sup>th</sup> November 2020
<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><b>The Sub-Committee has decided to modify the conditions of the premises licence.</b></p> <p>These conditions were imposed by virtue of section 177A(4) of the Licensing Act 2003 as though live and recorded music in the outdoor area of the premises, including the marquee, was regulated entertainment.</p> <p>Section 177A of the Licensing Act 2003, therefore, does not apply to these conditions.</p>
<b>CONDITIONS DEEMED APPROPRIATE FOR THE PROMOTION OF THE LICENSING OBJECTIVES</b>	<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 public nuisance</p> <p>The conditions are:</p> <ol style="list-style-type: none"> <li>1. There should be no more than six events of live music or recorded music sessions in the outside area, including the marquee. <b>[Section 177A of the Licensing Act 2003 does not apply to this condition]</b> This condition does not take effect until after any period of Covid-19 restrictions affecting the premises has ended and normal trading has commenced.</li> </ol>

	<p>2. The installed sound limiter in the marquee needs to be commissioned and agreed with North Hertfordshire District Council Environment Health/Environmental Protection prior to any outside events taking place. <b>[Section 177A of the Licensing Act 2003 does not apply to this condition]</b></p>
<p><b>CONDITIONS PROPOSED BY APPLICANT AND DEEMED APPROPRIATE BY THE SUB-COMMITTEE</b></p>	<p><b>The following conditions apply as soon as this decision takes effect, including during any Covid-19 restrictions</b></p> <ol style="list-style-type: none"> <li>1. The DPS/ manager will draw up and implement an entertainment management plan ('the plan'). The plan will set out what measures will be in place to ensure that entertainment (including quizzes) will not cause a public nuisance to residents in the immediate vicinity of the premises. The plan will be implemented in full during entertainment held at the premises. The plan will be revisited periodically and amended to reflect changes in the law and where entertainment will be held and will take into account any best practice or advice provided by the Council Environmental Protection Officer from time to time. The plan will be disseminated to all staff required to implement it and will be made available to responsible authorities on request.</li> <li>2. A complaints log ('the log') will be maintained and any complaints from residents shall be recorded in it. As a minimum, the information recorded shall include: Date and time of the complaint, name of complainant if known, name of person recording the complaint and any action taken thereafter in relation to it.</li> <li>3. There will be no quizzes undertaken in the outside area or marquee.</li> </ol> <p>As the above three conditions are not specifically related to live and/or recorded music, but include a wider range of licensable activities and the impact on public nuisance, they are not disapplied by the music deregulation.</p> <p><b>Conditions to only apply during any period of Covid-19 restrictions affecting the premises (to fall away automatically on the resumption of normal trading under Licensing Act 2003)</b></p> <ol style="list-style-type: none"> <li>1. No live or recorded music events (where music is provided above background level) will be permitted in the marquee and outside area until such time as the Environmental Protection Officer has signed off on agreed maximum levels for music, as measured from a hand-held decibel meter used by the DPS or manager, taken at various agreed points around the perimeter of the premises. Records of the checks being taken at the start of each live or recorded music event in the marquee will be kept and made available to the Environmental Protection Officer on request (including any</li> </ol>

	<p>adjustments to ensure the levels remain at or under the maximum).</p> <p><b>[Section 177A of the Licensing Act 2003 does not apply to this condition]</b></p> <p>2. No more than two live music and/ or recorded music sessions (excluding background music) shall take place in the marquee each week (Sunday to Saturday). No more than one spoken word event with ancillary music will be held in the marquee each week (Sunday to Saturday)</p> <p><b>[Section 177A of the Licensing Act 2003 does not apply to this condition]</b></p> <p><i>(For the avoidance of doubt, quizzes are not permitted in the outdoor areas or the marquee during Covid-19 by way of condition 3 above)</i></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 1.3, 1.4, 1.5, 1.16, 1.17, 2.1, 2.15, 2.16, 2.17, 2.18, 2.19, 2.22, 2.26, 8.41, 8.42, 8.44, 9.12, 9.42, 9.43, 9.44, 10.8, 10.9, 10.10, 11.10, 10.28, 10.35, 11.10, 11.17, 11.19, 11.20, 11.21, 11.23, and 16.55.</b></p>
<p><b>LICENSING POLICY CONSIDERATIONS</b></p>	<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, B10, D2.1, D2.4, D2.5, D2.6, D2.8, D2.9, D6.2, D6.3, D6.8, D6.9, D8.1, D8.2, D8.3, D11.1, D11.2, 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>
<p><b>RATIONALE FOR DECISION</b></p>	<p>1. The Sub-Committee felt it was apparent from the representations that unregulated music outside the premises was causing a nuisance to residents, and it was therefore appropriate to impose conditions by virtue of section 177A(4) of the Licensing Act 2003 as though live and recorded music in the outdoor area of the premises, including the marquee, was regulated entertainment.</p> <p>2. In including the aforementioned conditions, the Sub-Committee was confident that they were an appropriate and proportionate</p>

	<p>response to address the causes of concern that instigated the review.</p> <p>3. The Sub-Committee heard no evidence of nuisance being caused from entertainment inside the premises therefore were satisfied that the deregulation of live and recorded music was still appropriate for indoor entertainment.</p>
<b>COMMENCEMENT 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 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.</p>