

NORTH HERTFORDSHIRE DISTRICT COUNCIL



24/03/22

Our Ref Licensing Sub-Committee/08/04/22
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To: Members of the Committee: Councillor Simon Bloxham, Councillor Elizabeth Dennis-Harburg,
 Councillor Jean Green and Councillor Mike Rice

**NOTICE IS HEREBY GIVEN OF A
MEETING OF THE LICENSING SUB-COMMITTEE**

to be held in the

A REMOTE MEETING

On

FRIDAY, 8TH APRIL, 2022 AT 10.00 AM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL
AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION
ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Agenda **Part I**

Item		Page
1.	ELECTION OF CHAIR The sub-committee members will elect a Chair and determine who will be the reserve member	
2.	HEARING PROCEDURE The procedure to be followed by the Chair when conducting the sub-committee hearing	(Pages 3 - 6)
3.	DETERMINATION OF APPLICATION To determine the application for the variation of an existing premises licence at Chez Burton, 48 High Street, Baldock, SG7 6BJ	(Pages 7 - 48)

Pre-Hearing Preliminary

Sub-committee

The sub-committee will consist of three voting Members with a fourth non-participating Member listening to the hearing. In the event that a voting Member loses connection, the hearing will adjourn until connection can be restored. If the adjournment exceeds ten (10) minutes, or it is apparent sooner that re-connection will not be possible, the fourth Member will replace the absent Member and become a voting member of the sub-committee. If a quorum of three (3) Members that have been present throughout the hearing is not possible, the hearing will be adjourned to a stated date.

Applicant

In the event that the applicant loses connection, the hearing will adjourn until connection can be restored. If it becomes apparent that re-connection will not be possible, the hearing will be adjourned to a stated date.

Other persons

In the event that an 'other person' that has indicated their wish to speak loses connection, the hearing will adjourn until connection can be restored. If it becomes apparent that re-connection will not be possible, the hearing will be adjourned to a stated date. If an 'other person' that has indicated that they will not be participating orally in the hearing loses connection, the Chair may decide to continue with the hearing.

Decision

The sub-committee will undertake their deliberations in private and return to announce their determination on the live stream however they will not wait until all parties are connected. A copy of the decision will be forwarded to all parties electronically as soon as practicable.

CHEZ BURTON HEARING PROCEDURE

PRELIMINARIES

1. Election of sub-committee Chair
2. Election of the reserve (non-voting) sub-committee member

CHAIR'S WELCOME

3. Introduction of:
 - Councillors sitting on the sub-committee
 - legal advisor
 - licensing officer(s)
 - the other persons (objectors)
 - the applicant (and agent where applicable)
4. The Chair will outline the procedure for the hearing and seek confirmation that all parties are content to proceed on that basis.

LEGAL ADVICE

5. The Chair will ask the legal advisor to outline the matters for consideration during the course of the hearing.

LICENSING OFFICER REPORT

6. The Chair will ask the licensing officer if:
 - they have anything to add to their report to the sub-committee
 - if there have been any amendments to the hearing bundle and, if so, if all parties to the hearing have been made aware of the amendments
7. The Chair will ask if there are any questions of fact or clarification of the licensing officer from:
 - the other persons
 - the applicant
8. The sub-committee may ask questions of fact or clarification of the licensing officer

THE APPLICANT'S SUBMISSION

9. The Chair will ask the applicant (and/or the applicant's agent) to present their submission to the sub-committee explaining why the application should be granted.

10. The Chair will ask if there are any questions of fact or clarification of the applicant from:

- the other persons

11. The sub-committee may ask questions of fact or clarification of the applicant.

THE OTHER PERSONS' SUBMISSION

12. The Chair will ask the other persons (in turn unless they have identified a lead presenter) to present their submission to the sub-committee explaining why the application will have, or is likely to have, an adverse impact on the licensing objectives.

13. The Chair will ask if there are any questions of fact or clarification of the applicant from:

- the applicant

14. The sub-committee may ask questions of fact or clarification of the other persons.

CLOSING STATEMENTS

15. The Chair will ask the licensing officer if they have any final submissions to the sub-committee

16. The Chair will ask if the other persons have any final submissions to the sub-committee.

17. The Chair will ask if the applicant has any final submissions to the sub-committee.

LEGAL SUBMISSIONS

18. The Chair will ask the legal advisor to summarise any points of law that have arisen during the hearing.

19. The sub-committee may ask legal questions of the legal advisor.

ADJOURNMENT

20. The Chair will adjourn the hearing for the sub-committee to retire to make a decision in closed session.

DECISION

21. The sub-committee will return to open session and the Chair will announce the sub-committee's decision, including their reasonings.

22. The Chair will close the meeting.

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LICENSING SUB-COMMITTEE 8 April 2022

*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No.
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LICENSING ACT 2003

**APPLICATION BY NEIL BURTON
FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF
CHEZ BURTON, 48 HIGH STREET, BALDOCK, HERTFORDSHIRE, SG7 6BJ**

REPORT OF THE LICENSING OFFICER
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1. BACKGROUND

- 1.1 A premises licence was granted to the property under grandfather rights from the previous Licensing Act 1964 and has been in existence since 5 September 2005. The current licence is for the building only with no outdoor space.
- 1.2 The premises licence was transferred to the current owner, Neil Burton, on 21 June 2021.
- 1.3 In addition to the premises licence, a pavement licence exists for the front of the property and is valid until 30 September 2022, at which point the temporary legislative provisions for pavement licences are due to end.
- 1.4 A copy of the current premises licence is attached as **Appendix A**.

2. APPLICATION

- 2.1 The application is for a full variation of the premises licence under Section 34 of the Licensing Act 2003 and is included as **Appendix B**.
- 2.2 The variation is to amend the existing layout plan to include an outdoor area to the rear of the property. The intention would be to use the outdoor area as an extension of the current indoor dining and consumption of alcohol provision.
- 2.3 No other amendments to the existing licensable activities and timings are proposed in this variation.

3. APPLICATION PROCESS

- 3.1 On 3 February 2022, Neil Burton made an application to North Hertfordshire District Council for the variation of the existing premises licence.
- 3.2 The prescribed consultation period was from 4 February 2022 until 3 March 2022 inclusive, however this was subsequently extended to 11 March 2022 due to a delay in the applicant displaying the prescribed notices on the premises.

- 3.3 The application was received electronically so copies were served by the Council to Hertfordshire Constabulary and the other responsible authorities.
- 3.4 A public notice was displayed on the premises for a period of not less than twenty-eight (28) consecutive days in accordance with the requirements of the Act.
- 3.5 A newspaper advertisement was placed in The Comet in accordance with the requirements of the Act.

4. REPRESENTATIONS

- 4.1 No representation was received from Hertfordshire Constabulary.
- 4.2 No representation was received from NHDC Environmental Protection
- 4.3 No representations were received from any other responsible authority.
- 4.4 Six (6) representations were received from “other persons” against the application and are attached as **Appendix C**.
- 4.5 The licensing officer attempted to mediate the concerns of the “other persons”. The applicant agreed to two (2) conditions that relate to the “other persons” representations however not all the “other persons” withdrew their representations.
- 4.6 The additional conditions offered by the applicant where:
 - (i) The premises licence holder will ensure that the outdoor area is not used by patrons after 22:00hrs and that it will be cleared of patrons by that time.
 - (ii) The premises licence holder will ensure that there is a separate, unimpeded access to Flat 1D that will not form part of the outdoor area.

These conditions would likely resolve some of the representations as they referred to a later finish time in line with the premises opening hours.

- 4.7 The sub-committee, if it is minded to grant the application, may amend (add to, remove, or change) the conditions agreed by the applicant if it deems it appropriate to promote the licensing objectives in relation to matters raised in the representations. If the sub-committee is minded that a 22:00hrs finish time is unnecessary, all representations have been included in Appendix C so that it is aware of all objections to the later finish time.
- 4.8 The Council's Scheme of Delegation requires the licensing officer to determine whether a representation is relevant as specified within the Act.
- 4.9 Where representations include comments that are not relevant to the Act, these comments have been clearly redacted by the licensing officer and should not be considered as part of the determination process. **The other persons must not refer to these paragraphs in any oral presentation at the hearing (see sections 8.7 – 8.12).**

- 4.10 Where the licensing officer has determined that the representations are relevant, it is for the sub-committee to determine what weight to apportion to each representation.
- 4.11 The applicant has been served with a copy of the representations by way of this report.
- 4.12 The applicant and the other persons making relevant representations have been invited to attend the hearing to present their cases respectively. They have been advised that they may be legally represented and of the 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 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 sub-committee has the following options when issuing the Decision Notice:
- i) Grant the application as made
 - ii) Grant the application with conditions and/or amendments to the licensable activities and/or timings (conditions should only be added where they are appropriate to promote the licensing objectives).
 - iii) Refuse the application.

6. LICENSING POLICY CONSIDERATIONS

- 6.1 The following paragraphs from the Council's Statement of Licensing Policy 2021 – 2026 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 licensed venues and community and cultural activities within a safe and enjoyable environment, in both the daytime and night-time economy."

B7

The Council recognises that national and worldwide events may impact on its ability to promote this vision, particularly during pandemics and the impact of exiting the EU. The vision detailed in paragraph B6 will always underpin licensing policy however the Council may need to adapt to measures introduced by Government to stimulate the economy or protect public safety. Under these circumstances, temporary measures may not always be within the control of the licensing authority however the Council will always seek to strike a reasonable balance between achieving its vision and promoting the licensing objectives.

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.

D1.4

When determining applications the Council will have regard to this Statement of Licensing Policy, relevant legislation and any Guidance issued by the Home Office pursuant to section 182 of the Act. If relevant representations are made, the Licensing and Appeals Committee or its Sub-Committee, will balance its decision against all other factors for and against the application.

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.

D2.4

In determining applications, the Council will focus primarily on the direct impact of the proposed activities on persons that may be adversely affected in relation to the licensing objectives. The scope of those persons that may be affected will be determined on a case by case basis taking into account all relevant factors.

D2.8

The Council recognises that the exercise of its licensing function is only one of a number of means of securing the promotion of the licensing objectives. The exercise, by the Council, of its licensing function should not be seen as a panacea for all problems within the community. The Council will encourage co-operation between its licensing function, planning function and environmental health functions to ensure that any problems are addressed using the most appropriate means and that its licensing function does not duplicate any other statutory responsibilities.

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.*

D3.3

Generally, when the Council's discretion is engaged, the presumption will be to grant the hours requested unless there are representations raised by responsible authorities and/or other persons that demonstrate an adverse effect or likely effect on the licensing objectives

D3.4

The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the licensing objectives.

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.

D6.8

It is the Council's view that the imposition of conditions should be restricted to those that are proportionate in addressing any concerns in relation to the promotion of the licensing objectives. Conditions should not be used as a tool to attempt to mitigate every possible scenario; this will serve only to place undue burden on applicants and is not consistent with the general principles of the Guidance.

D6.9

Operating schedules and licence conditions should be drafted in such a way that it is clear to licence holders exactly what is required of them and these requirements should be concise and well-worded to assist the licence holder in managing their premises. The Council is strongly of the view that the imposition of a substantial list of conditions in order to grant an application calls into question the suitability of the applicant to hold a licence. Where a Licensing Sub-Committee determines that it is appropriate to impose a substantial list of conditions to the extent that they are effectively determining the day-to-day management of the premises, they will give serious consideration to refusing the application.

E3.1.1

Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise 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.

E3.3.1

This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of premises smoking and/or drinking and customers arriving at, leaving or queuing outside premises. Measures to prevent a public nuisance may include, but are not limited to:

- use of time restrictions on specified areas of the premises (different times can apply to different areas);
- cessation of the use of certain areas of the premises;
- supervision of outdoor areas, entrances and exits;
- suitably worded, clear and prominent signage;
- restriction of seating in outdoor areas of the premises;
- restriction of times that drinks can be taken in specified outdoor areas of the premises;
- restriction of the number of customers permitted in specified outdoor areas of the premises, including time-specific restrictions (different numbers and times can apply to different areas)..

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.

F4.1

In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are appropriate for the promotion of the licensing objectives and inadequately covered by other legislation. Ordinarily, conditions will be considered unnecessary if they are already adequately covered by other legislation.

F4.3

Notwithstanding the above, it is the responsibility of the applicants to ensure that they have all necessary consents, whether statutory or otherwise, and it should not be assumed that an authorisation under the Licensing Act 2003 removes this responsibility.

O1.1

The Council accepts that it can only consider matters in relation to the four licensing objectives when determining licensing applications, however as a public body it also has a statutory duty to consider the following legislative requirements:

- (i) Crime and Disorder Act 1998
Local authorities are required to have due regard to the crime and disorder implications of any decision it makes.
- (ii) Human Rights Act 1998
Local authorities are required to implement the Act in a manner consistent with the Human Rights Act 1998 by giving due consideration to the European Convention on Human Rights and Fundamental Freedoms.
- (iii) Equality Act 2010
Local authorities are required to implement the Act in a manner consistent with its responsibilities to consider the equality implications of any decision it makes.

O2.2

Any licence/certificate is issued without prejudice to any other consent, licence, approval or other authorisation required by other functions or responsibilities of the Council or any other statutory body. The possession of a licence/certificate under the Act does not supersede or replace any other statutory provision.

O4.7.1

Where practicable, the Council will try to mediate between any person or authority making a representation and the applicant to see if the concerns can be addressed prior to the hearing (this

mediation could start as soon as the first representation is received during the consultation period).

O4.7.2

Any attempts at mediation will be brought to the attention of the licensing sub-committee who is entitled to consider that as part of its determination

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 (April 2018 version) 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 and the determination should be based upon consideration of the full document:

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.

1.5

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

- *protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- *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;*
- *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;*
- *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*
- *encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.*

1.17

The licensing authority should only impose conditions on a premises licence or club premises certificate which are appropriate and proportionate for the promotion of the licensing objectives. If other existing law already places certain statutory responsibilities on an employer at or operator of a premises, it cannot be appropriate to impose the same or similar duties on the premises licence holder, or club. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.

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.

8.42

Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- any risk posed to the local area by the applicants' proposed licensable activities; and*
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

8.44

It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.47

Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

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. 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 When determining applications, licensing authorities must ensure that their decision is based on what is 'appropriate' for the promotion of the licensing objectives.
- 8.3 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.

- 8.4 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.43 and 9.44 of the Guidance. The sub-committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.43 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.
- 8.5 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.

- 8.6 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'.

Evidence not to consider

- 8.7 Representations have referred to existing issues that can be adequately dealt with under other legislation, for example rat infestation. The Statutory Guidance is clear that the Licensing Act 2003 should not consider issues where other legislation exists.
- 8.8 Some representations refer to problems that will be experienced in other properties in addition to their own. All persons had the opportunity to make representations during the public consultation therefore it would be reasonable to assume that the residents of neighbouring properties that have not made representations do not object to the application.
- 8.9 Many references have been made to other licensed premises and their impact on the vicinity. The application must be considered on its own merits against the licensing objectives. Further explanation is given below in the cumulative impact paragraphs.
- 8.10 Reference has been made to the impact on household insurance of the proposed outdoor area. Residential property insurance is not a matter for the licensing objectives.
- 8.11 Reference has been made to the access to Flat 1D potentially being blocked by the use of the outdoor area. The Fire Authority were a statutory consultee however raised no objections. In any event, the applicant has offered a condition to maintain a separate, unimpeded access to Flat 1D that will not form part of the outdoor area.
- 8.12 Reference was made to the economic viability of the current premises and the need to further expand the business. Financial viability and demand are not matters for the licensing objectives.

Planning vs Licensing

- 8.13 The sub-committee are reminded of the two distinctive regulatory regimes and their different objectives:
- 8.14 Planning deals with the wider remit of the impact of a property use on the locality.
- 8.15 Licensing deals with the narrower remit of the management of the premises in relation to the four licensing objectives.

Consumption of alcohol

- 8.16 The sub-committee are reminded that the consumption of alcohol is not a licensable activity; it is the sale of alcohol that is licensable.
- 8.17 Had the existing premises licence authorised the sale of alcohol for consumption on or off the premises, alcohol could be consumed within the outdoor area without varying the licence and without any conditions relating to the management of the outdoor area.
- 8.18 The premises licence only authorises the sale of alcohol for consumption on the premises so the application is seeking to include the outdoor area within the plan attached to the premises licence. This would then allow the consumption of alcohol outdoors as the outdoor area would be part of the premises.
- 8.19 Should the application be granted, alcohol consumption outside would be restricted to the outdoor area shown on the plan and would be subject to any conditions placed on the premises licence. The licence holder would also be able to provide a bar facility in the specified outdoor area. In effect, the outdoor area would become part of the premises and would be subject to the same responsible management required of the indoor areas.

Outdoor dining

- 8.20 The sub-committee are reminded that the outdoor consumption of food is not a licensable activity and may already take place in the outdoor area without the requirement to amend the licence.

Cumulative impact

- 8.21 As mentioned above in paragraph 8.9, the sub-committee should consider the impact or likely impact of this application on its own merits against the licensing objectives, having regard to representations received and the submission of the applicant.
- 8.22 With regard to existing alleged nuisance from other licensed premises, each premises licence holder is responsible for the management of their own premises and should not be judged against the actions, or inactions, of other licence holders.
- 8.23 The Licensing Act 2003 provides a review process (detailed further below) whereby any evidenced issues at an individual premises can be considered against the licensing objectives. The ethos being targeted action at premises causing problems rather than restricting further businesses that may not undermine the licensing objectives through effective premises management.
- 8.24 Whether considering an application for a new premises, the variation of a premises, or the review of a premises, sub-committees must have regard to the Council's Vision for Licensing published in its Licensing Policy which states:

"Our vision is:

To ensure that North Hertfordshire continues to offer a diverse range of well managed licensed venues and community and cultural activities within a safe and enjoyable environment, in both the daytime and night-time economy."

- 8.25 The Policy also considers the balancing act a sub-committee must have regard to when determining an application in town centres:

"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."

Review of a premises licence

- 8.26 Should the sub-committee be minded to grant a licence it will exist in perpetuity however there is a safeguard within the Act.
- 8.27 Any responsible authority or other person may apply to the licensing authority for the review of a premises licence if they can demonstrate that the premises are not adequately promoting the licensing objectives. In the case of other persons, they would need to demonstrate the direct impact on their household of licensable activities at the premises in terms of one or more of the licensing objectives.
- 8.28 If accepted by the licensing authority, an application for review would result in a twenty-eight (28) day consultation period advertised at the premises and on the licensing authority website where any responsible authority or other person could submit a representation.
- 8.29 A licensing sub-committee would hold a hearing to assess the representations and the oral submissions of the licence holder before considering what, if any, action was appropriate. The options available to the sub-committee would be:
- i) to take no action;
 - ii) to modify the conditions of the premises licence (modify includes adding new conditions, altering or omitting existing conditions, or altering permitted timings of licensable activities);
 - iii) to exclude a licensable activity from the premises licence;
 - iv) to remove the designated premises supervisor from the premises licence;
 - v) to suspend the premises licence for a period not exceeding three months; or
 - vi) to revoke the premises licence.

9. APPENDICES

- 9.1 Appendix A Existing premises licence
9.2 Appendix B Application and proposed plan amendment
9.3 Appendix C Representation from other persons

10. CONTACT OFFICER

Jasmine Jennings
Licensing Officer
jasmine.jennings@north-herts.gov.uk

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Licensing Act 2003

Part A

Format of premises licence

**North Hertfordshire District Council
Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF**

**Original grant date: 05 September 2005
Current issue date: 21 June 2021**



.....
Authorised signatory

Premises licence number: 4892

Part 1 – premises details

**Chez Burton
48 High Street, Baldock, Hertfordshire, SG7 6BJ**

This licence is granted in perpetuity

Licensable activities authorised by the licence

**Section I: Provision of Late Night Refreshments:(Indoor)
Section J: Sale or Supply of Alcohol:(On the premises)**

The times the licence authorises the carrying out of licensable activities**Section I: Provision of Late Night Refreshments:(Indoor)**

Day	Start Time	End Time
Monday	23:00	00:30
Tuesday	23:00	00:30
Wednesday	23:00	00:30
Thursday	23:00	00:30
Friday	23:00	00:30
Saturday	23:00	00:30
Sunday	23:00	midnight

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

Christmas Day and Good Friday

On these days, the permitted hours will be 23:00hrs - midnight

Section J: Sale or Supply of Alcohol:(For consumption on the premises)

Day	Start Time	End Time
Monday	10:00	midnight
Tuesday	10:00	midnight
Wednesday	10:00	midnight
Thursday	10:00	midnight
Friday	10:00	midnight
Saturday	10:00	midnight
Sunday	12:00	23:30

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

:

Christmas Day

On this day, the permitted hours will be 12:00hrs - 23:30hrs.

Good Friday

On this day, the permitted hours will be 10:00hrs - 23:30hrs.

The opening hours of the premises

Day	Start Time	End Time
Monday	n/a	n/a
Tuesday	n/a	n/a
Wednesday	n/a	n/a
Thursday	n/a	n/a
Friday	n/a	n/a
Saturday	n/a	n/a
Sunday	n/a	n/a

This premises licence does not place any restrictions on the hours the premises may be open to the public

For consumption on the premises

Part 2

Name, (registered) address, telephone number and email of holder of the premises licence

Mr Neil Burton
11 Croft Lane, Letchworth Garden City, Hertfordshire, SG6 1AS

Registered number of holder, for example company number, charity number (where applicable)

n/a

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Adrian John Parker

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

Licence Number: 1742
Issuing authority: North Hertfordshire District Council

Annex 1 – Mandatory conditions

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.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

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.

Any one or more individuals at the premises for the purposes 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.

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.

The responsible person must ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises. In this condition, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise).
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective
- (c) provision of free or discounted alcohol, or any other thing, as a prize to encourage or reward the purchase and consumption of alcohol over a period of twenty-four (24) hours or less in a manner which carries a significant risk of undermining a licensing objective.
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than when that other person is unable to drink without assistance by reason of a disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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.

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. 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.

The responsible person must ensure that:

(a) where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcohol drinks sold or supplied having been made up in advance ready for sale or supply in securely closed containers) it is available to customers in the following measures:

- (i) beer or cider: half pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not, in relation to a sale of alcohol, specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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 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.

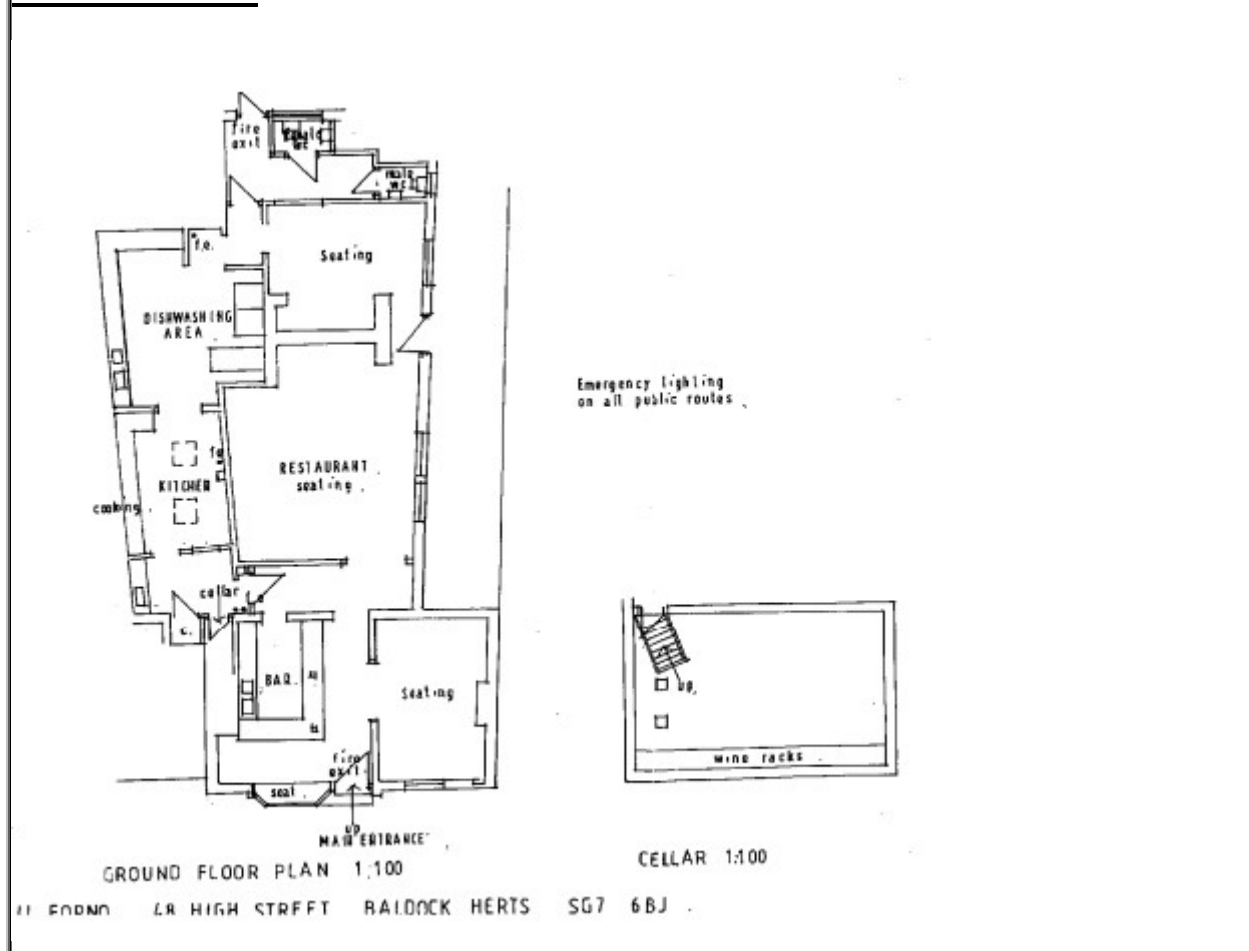
Annex 2 – Conditions consistent with the operating schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

None

Annex 4 – Plans





* required information

Section 1 of 18

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	<input type="text" value="Not Currently In Use"/>	This is the unique reference for this application generated by the system.
Your reference	<input type="text" value="Chez Burton"/>	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	<input type="text" value="Neill"/>	
* Family name	<input type="text" value="Burton"/>	
* E-mail	<input type="text" value=""/>	
Main telephone number	<input type="text" value=""/>	Include country code.
Other telephone number	<input type="text" value=""/>	

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

Are you:

☒ 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 you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant 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	<input type="text" value="13260342"/>	
Business name	<input type="text" value="Chez Burton Ltd"/>	If your business is registered, use its registered name.
VAT number	<input type="text" value="-"/> <input type="text" value="382626872"/>	Put "none" if you are not registered for VAT.
Legal status	<input type="text" value="Private Limited Company"/>	

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

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 18

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 (£)

340

Section 3 of 18

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.

We are a fine dining, small plates restaurant that serve cocktails and wine. We have a garden at the rear in a bad state of repair that we would like to clean and make good and use for outdoor eating and the consumption of alcohol. The garden, once renovated, will be enclosed and offer quiet enjoyment of our food and drink during the summer months. These plans are in complete consultation and agreement with the landlord and local businesses. The access to the garden will be through the restaurant only and not accessed from the rear.

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

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

☐ Yes

☒ No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

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

☐ Yes

☒ No

Section 6 of 18

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 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

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 18

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

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

☐ Yes ☒ No

Section 9 of 18

PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

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

☐ Yes ☒ No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

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

☐ Yes ☒ No

Section 11 of 18

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

[See guidance on regulated entertainment](#)

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 18

PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

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

☐ Yes ☒ No

Section 13 of 18

SUPPLY OF ALCOHOL

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

☐ Yes ☒ No

Section 14 of 18

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.

None

Section 15 of 18

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.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

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.

No different from the existing licensing hours

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.

New years Eve may be later. 1am close

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

None

☒ 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 18

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.

Continued from previous page...

We will operate as responsible restaurant owners in respect to the variation of this license and we do with the license for indoor dining. We are a fine dining restaurant and therefore our clientele are slightly older and more affluent. We do not serve draft beers or cheap spirits and therefore do not attract younger or rowdy customers. We do not tolerate anti social behavior or drugs and adhere to all health and safety regulations to ensure our clients have a pleasant experience. The rear garden is self contained and walled from surrounding businesses with no permissible entrance or exit other than through the restaurant with the exception of a fire exit.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18**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

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 your 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 (£)

100.00

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. Those who make a false statement may be liable on summary conviction to a fine of any amount..

Continued from previous page...



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

Add another signatory

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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

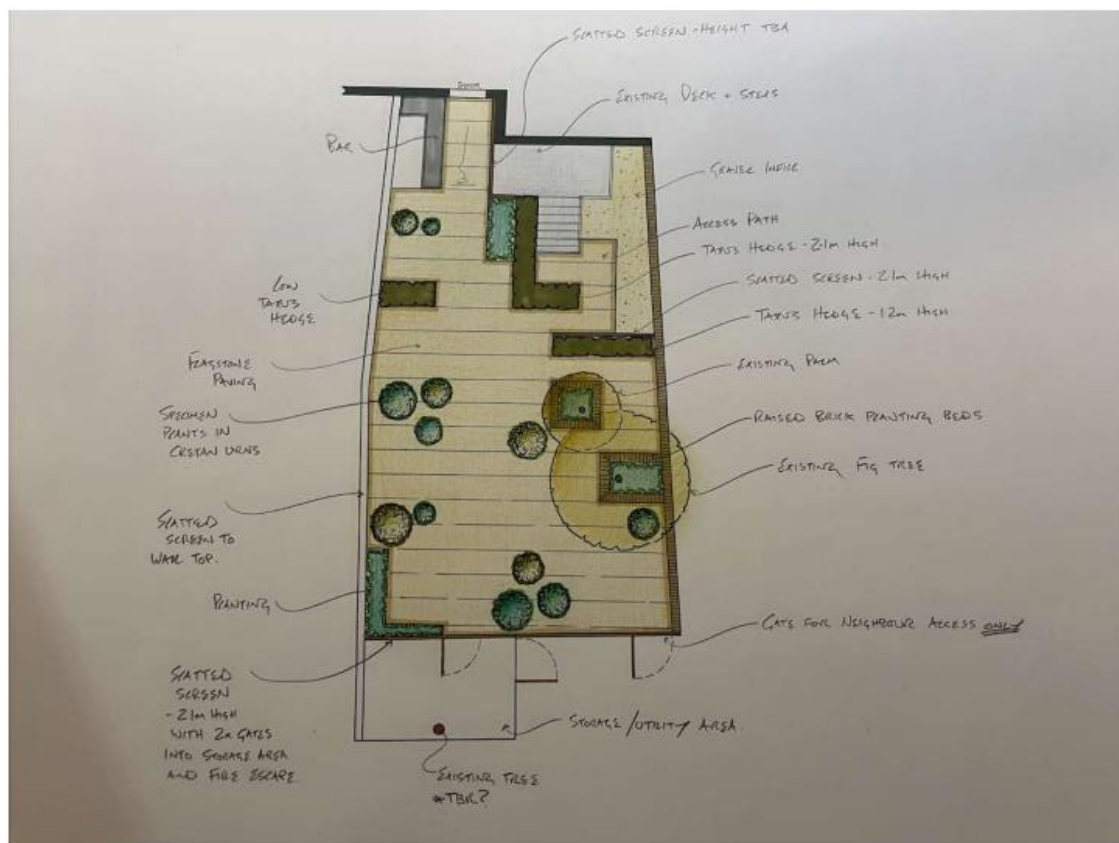
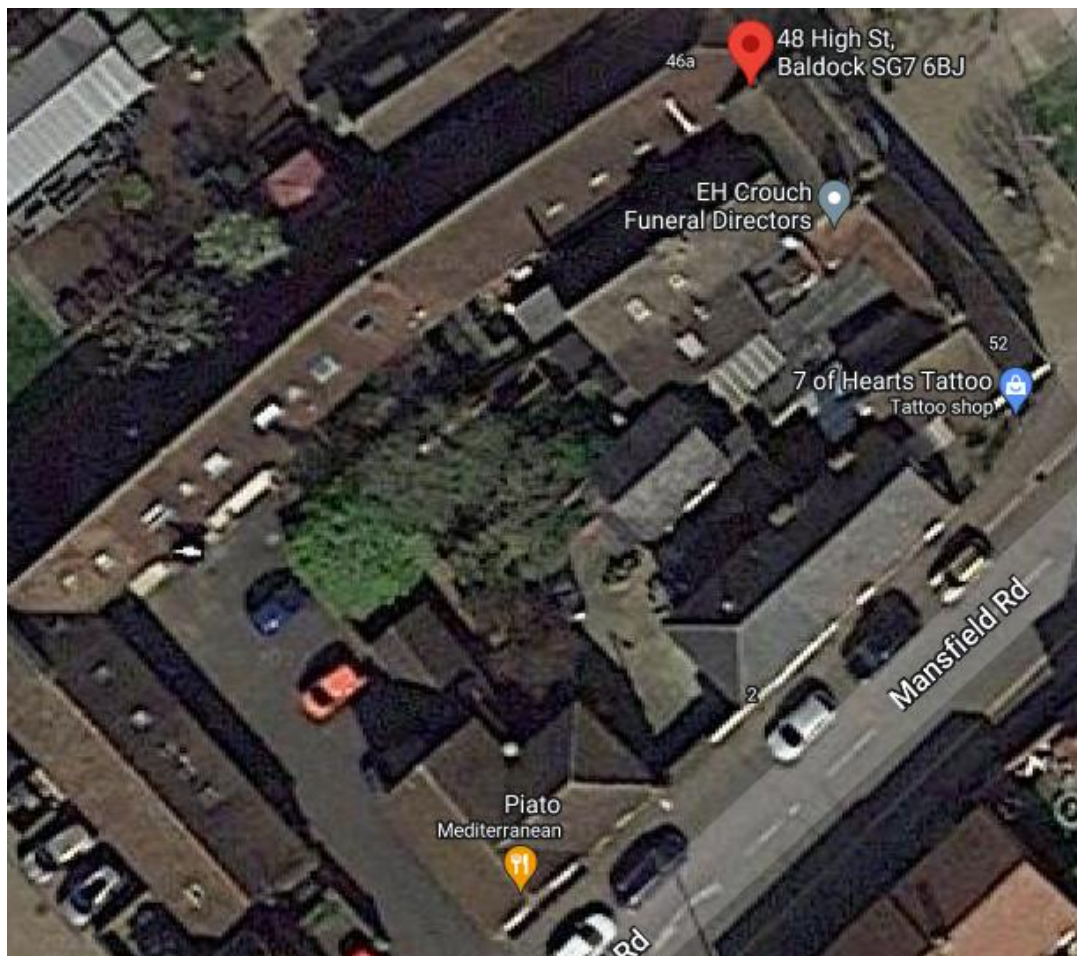
Date and time submitted

Approval deadline

Error message

Is Digitally signed ☐

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David and Stephanie Taylor
3 Maltings Court, Mansfield Road, Baldock, SG7 6EB

We strongly object to Neil Burton's application to North Hertfordshire District Council for a Variation of a Premises Licence under the Licensing Act 2003 for Chez Burton, 48 High Street, Baldock, Herts for the following reasons:

Chez Burton garden, please see picture below, is in such close proximity to our property. It is unacceptable that customers of Chez Burton, could be permitted to drink/smoke in the garden until midnight six days a week and until 11.30pm on Sunday.

Maltings Court is a small courtyard of residents who work long hours and rise early. The impact of any of us not getting enough sleep, due to the noise that would be created from customers in the garden so late at night, would, in time, have a serious effect on our well-being.

[REDACTED]

[REDACTED]

We do not feel that Mr Burton has given any thought or consideration whatsoever to their residential neighbours.

We implore you to please take into account the impact this proposal would have on us all if it is passed.

Photo of garden area from bedroom window.



2 Maltings Court, Mansfield Road, Baldock, SG7 6EB

[REDACTED] in the summer months
when we have our windows open, we will have to put up with the smell of cigarette smoke, [REDACTED]
[REDACTED]

[REDACTED]

People should always have privacy in their own homes. Our homes are quite tall. Although the proposal says they want the garden to be walled, they couldn't possibly build a wall high enough to create complete privacy or 'seclusion' from the surrounding homes- the wall would tower over the restaurant itself. I wouldn't want to sit in a garden eating and drinking when people are trying to work from home or use their toilets next to me. It's just weird. It would encroach on our privacy completely and it would make me so uncomfortable knowing that people can see me making my dinner or putting my undies on the drier. We can't afford (economically or mentally!) to have curtains and blinds shut constantly just to retain a scrap of privacy.

██████████ We don't have gardens to escape to and we have been so tolerant with everything that's happened up to this point. This is just a step too far.

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The application is to extend the licensing hours of the restaurant at number 48 High Street Baldock, to the garden area at the rear of the building.

The current times for the restaurant are, 10am to 12 midnight Monday to Saturday and 10am to 11.30pm on Sunday.

The application states the secluded walled garden “would allow guests quiet enjoyment of food and drinks in a relaxed” environment.

I am representing two tenants of five house units in Maltings Court in close proximity to this garden. These properties are three storied with bedrooms situated on the third floor. All their windows face this garden area, so there is no way of escaping the noise of diners talking and laughing loudly as they consume alcohol until midnight. The disturbance will continue even later, as the staff clear up afterwards. The garden will have lighting covering the whole area causing light pollution. The concept of noise and bright lights directly in front of their homes, will severely impact on the lives of the residents, especially if they choose to go to bed early in order to have a good night’s sleep. On a warm summer’s night, the noise will funnel into their bedrooms when the windows are open. Their lives will be shattered by noise and nuisance seven nights a week, every week of the year if this application is allowed.

I wish to strongly object to the proposed use of this garden as a late night restaurant, on the basis it will severely affect the quality of the residence in Maltings Court.

Please consider my objection to this application as the owner of two properties in the immediate vicinity to this garden.

Additional email following mediation attempts

Thank you for your reply to my e-mail of 5th March 2022.

The official application refers to a 10am to 12 midnight (11.30pm Sunday) seven days a week, all year alcohol licence variation. I can therefore only respond to this application. I object to this application as the owner of two of the homes in this quiet residential area.

This garden area is only 4.5 metres from the windows of the Maltings Court building.

Tenants in the past have had children and it’s difficult to see how a child could go to bed at 7pm without being disturbed by noise and the lights from this proposed outside alcohol licensed dining area. A present tenant is employed on shift work.

The concept of diners drinking and eating quietly is a misnomer. Especially when they leave, they tend to be even louder. The consumption of alcohol is the main cause of this inconsiderate behaviour. Outside noises at night are more noticeable as people settle in their homes.

The other main concern of mine, is the seven day and night Licence. This might be acceptable in a building but not in the open air. The fear of numerous people making a noise and nuisance any day of the week is an unnecessary stress to residence in Maltings Court.

[REDACTED]

Please lodge my objection to this variation of a Premises alcohol Licence in respect of Chez Burton restaurant at 48 High Street Baldock SG6 7BJ.

On the grounds of excess noise and nuisance, together with light pollution in the heart of this quiet residential area, late into the night and every day of the week.

This is in addition to my response e-mail of the 5th March 2022

Paul and Marion Watts
1 Maltings Court, Mansfield Road, Baldock, SG7 6EB

We wish to object to the variation of a Premises Licence by Neill Burton at the above property.

Our house is at the back of this restaurant and over looks the rear garden referred too in this application. Our property is less than 15 metres away from the garden. All the windows from our property overlook the garden. We live on the first and second floor. Our bedroom is on the second floor and has velux windows.

We have no objection to the garden being used as an extension to the restaurant.

Our objections are to the hours of use. The application is showing 6 nights open until midnight and the Sunday until 23:30.

We wish the garden to be open until 22:00 hours maximum. We are both self employed and work from home. We get up relatively early at 6:00 hours so we can start work by 7:30. We both go to bed around 22:00 every night.

In the warmer weather our velux windows will be open and we will be able to hear every noise from the garden. It is human nature that as people have more to drink their voices increase in volume and sound travels upwards.

[REDACTED]

[REDACTED]

Marie Free
2 Barns Courtyard, Mansfield Road, Baldock, SG7 6FE

I have seen the application for the premises Chez Burton Baldock and I object to the opening hours I live on the other side of the wall that partitions the garden to my garden I will be subjected to noise Monday to Saturday until 12pm I feel 10pm would be more acceptable.

I work long days so I don't think it would be acceptable for me to have no peace and lack of sleep during the summer months.

Karen and Robin Watts

2 Maltings Court, Mansfield Road, Baldock, SG7 6EB

NOTICE OF APPLICATION under the Licensing Act 2003 regarding Neil Burton's application to extend Chez Burton Restaurant, 48, The, High St, Baldock, Hertfordshire SG7 6BJ which is extremely close to our home (approximately 30-50 feet away) and will cause sleep disturbance and possible mental health and well-being issues.

We are writing to oppose the application by Chez Burton extending the premises into the rear garden space.

Our concerns are:

Late night disturbance: The notice does not define the hours of business. Chez Burton is a late-night restaurant open until 12 midnight Monday to Saturday and 11.30pm on Sunday. (A notice of times is displayed in their window). The new garden area will have the same licensing hours. **This is unacceptable due to the extremely close proximity to our home and disturbance to our sleep.**

Environmental noise pollution. Our kitchen, bathroom and toilet, and most importantly our bedroom windows all open out on to this area, the environmental noise from customers who are dining and drinking in the evening will no doubt disturb our sleep therefore affecting our mental health and wellbeing. We work full-time during the day and usually are in bed by 10pm as we are both up early for work. Sometimes in bed earlier if feeling unwell or have a migraine. We don't have a garden and this courtyard is our only respite from what is a well populated area of restaurants and pubs. No amount of specialist fencing will stop environmental noise because the garden space is too close to houses and homes.

[REDACTED]

Light pollution. The Chez Burton garden area will need lighting. The lights will be on late into the night likely filtering through to our bedrooms causing sleep disturbance, again likely to cause mental health and wellbeing problems.

Encroaching on our privacy. The proximity of the garden (please see photos attached), is extremely close to private residencies. Our living area faces out towards this space. We do not feel comfortable about the possibility of having strangers watching us cook in our kitchens or watch us get ready for bed!

Air pollution. [REDACTED] Chez Burton's extension will likely bring more smoke, more smells into our homes.

[REDACTED]

[REDACTED]

As you can see in the photo attached, this garden space is not derelict but is overlooked by all homes in Maltings Court and Barnes Court. If you were paying to eat outside, it would not be a pleasant experience, being stared at by residents whilst they are cooking, showering or toileting!

We implore you to take into consideration our pleas not to allow this extension to go ahead. [REDACTED]

[REDACTED]

[REDACTED]

What we are trying to convey to you is that the area that Chez Burton wants to extend out to is our only quiet area we have available to us. If things get too noisy from the pub we can go and sit in our bedroom which as adults is a sad situation, but we have no choice as we have nowhere else to go within our home. **This is our home!** [REDACTED]

[REDACTED] It will have a massive impact on our daily living, we all go out to work or school and we all have the right to a quiet time to feel safe and relaxed in. [REDACTED]

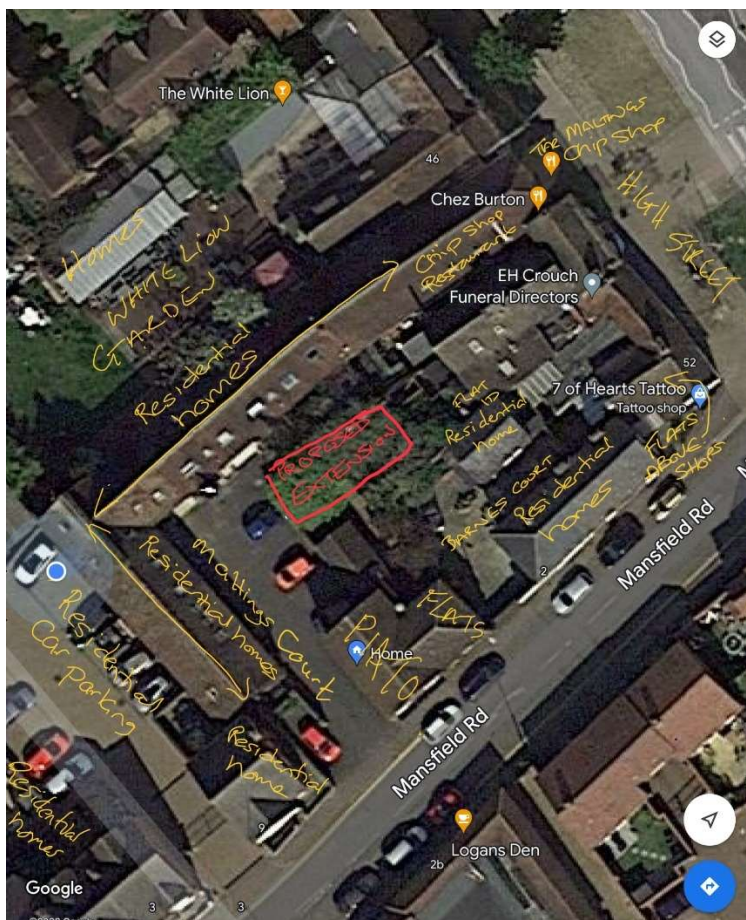
[REDACTED] Even when the customers have gone, staff will be out there clearing up. It will be relentless!

[REDACTED]

Council members, how would you like to have an open-air restaurant literally on your doorstep and have your sleep disturbed every night of the week? I am certain you too would not want this to happen.

We have attached photos taken from our bedroom, toilet etc showing you how close the garden is to our homes. If you wish to visit this area and see for yourselves, we would be happy to meet with you. I have also posted a copy of this letter to you. Please could you acknowledge receipt of this email.

Screenshot of Google Earth mapping out how close the garden space is to our homes.





This photo shows the garden space from our bedroom window.



3, 4 & 5 Maltings Court are even closer, all overlook the garden space



View of Barnes Court housed owned by the same landlord as Chez Burton.



Garden space from our toilet and bathroom window. There will be no privacy for us



Garden space from our toilet and bathroom window. There will be no privacy for us. [REDACTED]

Additional email following mediation attempts

Having received a call from a licensing officer yesterday afternoon, I am writing to say that after talking to other residents of Maltings Court, my husband and I will not be withdrawing our application.

[REDACTED]

I do not feel that loud noise, disturbance at night, the closeness to adjoining property, bright light shining into our bedroom windows, scraping chairs, customers causing a commotion when leaving and the staff clearing up every evening late into the night, is irrelevant [REDACTED]

[REDACTED]

I do not feel that the 2.1 metre fencing will prevent patrons observing us. It's the same height as standard fencing in the area already and we see everything in the garden. I was also told that the outside area would seat 18 people: that's a lot of voices late at night in a small area!

