

**LICENSING OF ALCOHOL AND GAMBLING
SUB-COMMITTEE**

THURSDAY 26 JANUARY 2012 AT 14.30 PM

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillors Green (Chairman), Taylor and Sutton

For further information, please contact Pauline Bowles, Members Support Officer on Tel: 01442 228221, or Email: Pauline.bowles@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk

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1. INTRODUCTIONS

2. MINUTES

To confirm the minutes of the meeting held on 19 October 2011.

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

4. DECLARATIONS OF INTEREST

To receive any declarations of interest.

5. LICENCE HEARING

Application for a Review of a premises licence,

LICENSING ACT 2003.

**THE GEORGE PUBLIC HOUSE, 261 HIGH STREET, BERKHAMSTED,
HERTFORDSHIRE HP4 1AB: REVIEW OF PREMISES LICENCE**

(Contact: Kathryn Ashton, Environmental Health Team Leader
Sally Taylor, Licensing Support Officer, Regulatory Services)

PURPOSE OF REPORT

To consider an Application for the Review of a Premises Licence in accordance with the Licensing Act 2003.

THE APPLICATION

Application is made under Section 51 of the Licensing Act 2003.

Applicant: Alison King, Environmental Health Officer, on behalf of Environmental Health (Pollution), Dacorum Borough Council.

The application produced at Annex 1 relates to the Prevention of Public Nuisance licensing objectives:

A map of the area in which the premises is situated is set out at Annex 2.

Premises: The George, 261 High Street Berkhamsted, Hertfordshire HP4 1AB

Premises Licence Holder: Mrs Katherine Wheway

Designated Premises Supervisor: Ms Jennifer Helen Lee.

Officers arranged for notice of the review (Annex 3) to be displayed on the premises, visible from the street and on public display at the Civic Centre in accordance with Regulation 38 of the Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005.

BACKGROUND INFORMATION

The premises licence initially issued on 24th November 2005 permits the following:

The opening hours of the premises	
Day	Hours permitted
Monday	11:00 hrs - 00:00 hrs
Tuesday	11:00 hrs - 00:00 hrs
Wednesday	11:00 hrs - 00:00 hrs
Thursday	11:00 hrs - 00:00 hrs
Friday	11:00 hrs - 01:30 hrs
Saturday	11:00 hrs - 00:30 hrs
Sunday	11:00 hrs - 00:00 hrs

Christmas Eve and New Year's Eve from 11:00 hours until 02:30 hours

Supply of alcohol for consumption on the premises only	
Day	Hours permitted
Monday	11:00 hrs - 23:30 hrs
Tuesday	11:00 hrs - 23:30 hrs
Wednesday	11:00 hrs - 23:30 hrs
Thursday	11:00 hrs - 23:30 hrs
Friday	11:00 hrs - 01:00 hrs
Saturday	11:00 hrs - 00:00 hrs
Sunday	11:00 hrs - 23:30 hrs

Christmas Eve and New Year's Eve from 11:00 hours until 02:00 hours

Live music	
Day	Hours permitted
Monday	11:00 hrs - 23:30 hrs
Tuesday	11:00 hrs - 23:30 hrs
Wednesday	11:00 hrs - 23:30 hrs
Thursday	11:00 hrs - 23:30 hrs
Friday	11:00 hrs - 01:00 hrs
Saturday	11:00 hrs - 00:00 hrs
Sunday	11:00 hrs - 23:30 hrs

Indoors only – Karaoke, no live bands

Playing of recorded music	
Day	Hours permitted
Monday	11:00 hrs - 23:30 hrs
Tuesday	11:00 hrs - 23:30 hrs
Wednesday	11:00 hrs - 23:30 hrs
Thursday	11:00 hrs - 23:30 hrs
Friday	11:00 hrs - 01:00 hrs
Saturday	11:00 hrs - 00:00 hrs
Sunday	11:00 hrs - 23:30 hrs

Indoors only – amplified with noise limiter

Anything of a similar description to live and recorded music and the performance of dance	
Day	Hours permitted
Monday	11:00 hrs - 23:30 hrs
Tuesday	11:00 hrs - 23:30 hrs
Wednesday	11:00 hrs - 23:30 hrs
Thursday	11:00 hrs - 23:30 hrs
Friday	11:00 hrs - 01:00 hrs
Saturday	11:00 hrs - 00:00 hrs
Sunday	11:00 hrs - 23:30 hrs

Provision of facilities for dancing	
Day	Hours permitted
Monday	11:00 hrs - 23:30 hrs
Tuesday	11:00 hrs - 23:30 hrs
Wednesday	11:00 hrs - 23:30 hrs
Thursday	11:00 hrs - 23:30 hrs
Friday	11:00 hrs - 01:00 hrs
Saturday	11:00 hrs - 00:00 hrs
Sunday	11:00 hrs - 23:30 hrs

Indoors only

The Conditions on the operating schedule are as follows:

GENERAL STATEMENT OF LICENSING OBJECTIVES

Operation of goldcard Membership scheme so that only members can enter the premises on Friday and Saturday nights.

Signs are clearly displayed at the premises asking patrons to leave quietly and to use the toilet facilities before they leave.

SIA qualified staff to operate as door security on Friday and Saturday from 20:00 hours to the time the premises are closed to the public to prevent admission of undesirable members of the public and to control dispersal on the street, outside the door and for the latter purpose the SIA qualified staff will remain on the street for 15 minutes after closing time.

Customers will not be permitted entry after 00:00 hours.

That the Management use best endeavours to prevent customers from leaving the premises with glass drinking vessels, open bottles or similar during opening hours and in particular at closing time (except for genuine off-sales or where external seating areas are being used).

The fence and double gate at the rear of the premises to be repaired by 13th September 2006 and to be kept padlocked.

A noise limiter device will be used at the premises at all times.

No music will be played at the premises after the permitted time for sale of alcohol has ended, i.e. 30 minutes before closing time.

THE PREVENTION OF CRIME AND DISORDER

Signs are displayed at the premises outlining the zero tolerance policy to drugs and violent or disrespectful behaviour.

Regular checks are carried out by staff throughout the period where the premises are open to the public.

PUBLIC SAFETY

Three internet web cameras capable of remote access and recording to monitor the inside of the premises.

THE PREVENTION OF PUBLIC NUISANCE

Noise limiting device installed for the incidental bar room music to be re-set at a level agreed by the Environmental Health Division when the windows and doors are open. Noise limiter to be used at all times.

Patrons will be required to leave the beer garden and return to the bar area at 22:30 hours.

Smokers will be allowed to access only the sunken area of the garden after 22:30 hours.

Patrons will be advised by staff to use only two specified taxi companies.

The playing of music will cease at the same time as the cessation of the sale of alcohol.

No live music will be played at the premises.

CCTV cameras will monitor the rear garden area.

THE PROTECTION OF CHILDREN FROM HARM

The premises operates a strict policy towards preventing underage drinking including displaying signs warning customers that photographic identification will be required for those who look under the age of 21.

A notice will be displayed indicating that it is illegal to purchase offsales for consumption by persons under the age of 18.

APPLICATION FOR REVIEW

An application for Review was received by the Licensing Section on Tuesday 6th December 2011.

The application was submitted by Alison King, Environmental Health Officer, on behalf of Environmental Health (Pollution) Dacorum Borough Council, and made on the

grounds of The Prevention of Public Nuisance. Further details of the application are produced in Annex 1.

RELEVANT REPRESENTATIONS

Responsible authorities:

None

Interested Parties:

A representation in support of the Review is set out at Annex 5.

Details of meeting between Mr and Mrs Wheway , Kathryn Ashton, Environmental Health Team Leader and Alison King, Technical Officer

A meeting took place with the Licence Holder of the George Public House, Mrs Katherine Wheway and her husband Mr Mark Wheway on Thursday 15 December 2011 at 10am. The meeting was offered to the Licence Holder following the submission of the evidence from Environmental Health and to discuss the matter further. This request was accepted by Mr and Mrs Wheway who were keen to discuss possible remedies to the problem.

Mr and Mrs Wheway proposed a number of options which they considered would minimize the disturbance caused to the neighbours. It was agreed that the measures could be tested over the following weeks prior to the review hearing. Such measures included, keeping main rear doors closed from 10.30pm every night when entertainment takes place, altering the smaller fire exit door to be the access to the outside area which is located away from the speakers and preventing patrons taking drink receptacles outside after 10.30pm.

The Licence Holder was also reminded that the outside area utilized as a smoking area did not currently comply with the Health Act 2006 and this needed to be addressed as a separate matter without delay.

A further meeting has been arranged for all parties together with the Licence Holder's Solicitor on 17 January 2012 and the outcome will be reported at the meeting on 26 January 2012.

LOCAL POLICY CONSIDERATIONS

It is considered that the following policies have a bearing upon the application:

1.3 The Licensing Act 2003 regulates the following activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- The provision of regulated entertainment and
- The provision of late night refreshment.

1.4 The Council as the Licensing Authority has discretion whether to grant applications for licences and to impose conditions on the granting or review of licences only when representations relevant to the licensing objectives are made by 'Interested Parties' (to include a person living or involved in a business in the vicinity of the premises, a body representing those persons, or a member of the relevant licensing authority i.e. an elected councillor for that area), or by 'Responsible Authorities' (public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence). When no relevant representations are received, the Licensing Authority is required to grant a licence subject to conditions consistent with the operating schedule and mandatory conditions under the 2003 Act.

1.5 Nothing in this Statement of Licensing Policy prevents applications being considered on their own merits, nor will it undermine the right of any person applying for a variety of permissions under the Act.

1.6 This statement of policy does not override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for him or her to do so in the 2003 Act. Information on reviews can be found at www.culture.gov.uk, or provided in hard copy if required.

1.7 In addressing these matters the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

1.8 The Licensing Objectives are four statutory objectives which must be addressed when undertaking licensing functions.

The Licensing Objectives are:

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

1.9 The Licensing Authority must have regard to these objectives when carrying out its functions under the Licensing Act 2003. It has had regard to the revised Guidance issued by the Secretary of State in October 2010 in drawing up this statement of Licensing Policy.

1.10 If the Council in its role as Licensing Authority departs from this Guidance, it will provide full reasons, as suggested in Paragraph 1.7 of the Guidance.

1.11 This policy is intended to offer a reasonable balance between different and, on occasions, competing, aims, including offering wider choice and appeal of licensed premises, developing culture and protecting local residents.

1.12 The licensing process seeks only to control those measures within the control of the licensee and in the vicinity of the premises. Licensing legislation is not a mechanism for the general control of anti social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key aspect of such control, and licensing law will always be a part of a holistic approach to the management of the evening and night-time economy in Dacorum.

3.1 The Licensing Authority has a duty under the 2003 Act to carry out its functions with a view to promoting the 4 licensing objectives, as follows: -

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

Each objective has equal importance.

3.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its policy statement, and any statutory guidance under the Act, it is also bound by the Human Rights Act 1998. The Licensing Authority must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 as follows: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority.... to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area".

3.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses and local people towards the promotion of the licensing objectives as outlined.

Licence Conditions

10.1 The Licensing Authority will avoid imposing disproportionate conditions on premises. It will only impose conditions that are necessary in order to promote the licensing objectives and are in themselves reasonable and proportionate.

10.2 In the case of an unopposed application the Licensing Authority has the discretion only to apply conditions that are consistent with the operating schedule. Where there are relevant representations and these are upheld by the Licensing Authority's Licensing Committee, further conditions may be attached to a licence in pursuance of the promotion of the licensing objectives.

10.3 Where appropriate the Licensing Authority will attach conditions from the model pool of conditions issued by the Home Office depending on the circumstances of each individual case.

10.4 The Council will seek to avoid attaching conditions to licences unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation (as indicated in paragraph 13.9 of the Secretary of State's Guidance). It is not the Licensing Authority's intention to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

11. Planning and Building Control

11.1 The planning and licensing regimes involve the consideration of different (albeit related) matters. For instance licensing considers public nuisance whereas planning considers amenity. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Council's Development Control Committee. The Licensing of Alcohol and Gambling Sub Committee is not bound by the decisions made by the Development Control Committee and vice versa.

11.2 The granting by the Licensing of Alcohol and Gambling Sub Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

11.3 There are also circumstances when, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

11.4 The planning and building control and licensing regimes of the Licensing Authority will be properly separated to avoid duplication and inefficiency. Normally applications for premises licences for permanent commercial premises will be from businesses with planning consent for the premises concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.

11.5 The Council as Local Planning Authority is a Responsible Authority and can make representations on applications. It can, however, only make representations relating to the licensing objectives.

11.6 Public nuisance and crime and disorder are shared concerns of planning and licensing.

11.7 The absence of lawful planning use for an activity is not itself a matter for the Licensing Authority. The Licensing of Alcohol and Gambling Sub-Committee and the applicants may be informed of the planning status of the premises in reports on licensing applications. Only in exceptional cases would the Local Planning Authority make representation as a Responsible Authority. Whether the premises have planning permission or whether a lawful use exists are matters that are dealt with by the Local Planning Authority.

11.8 The Council as a Local Planning Authority has planning policies which relate to planning concerns, including the development and use of buildings and land. They contain criteria related to such matters as the size of premises and the use of premises, rather than to individual licensable activities.

11.9 Planning remains the regime that is concerned with the development of premises and their overall use. Licensing is directed at individual licensable activities and their management. The granting of planning permission for a premises or a finding that premises enjoy lawful use, do not prevent the Council as Licensing Authority from

considering in detail the licensable activities, their management and conditions appropriate to them.

11.10 The Council regard licensing as a key means of controlling nuisance and anti-social behaviour and part of the holistic approach to the management of the evening and night time economy.

Integrating Strategies

12.5 In order to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Administration, Exercise and Delegation of Functions

19.3 Applications where there are relevant representations will be dealt with by a Sub-Committee of the Licensing Authority, as will any application for review of a licence.

19.4 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. Applicants should make themselves aware of this Policy and in particular the issues that will need to be addressed in formulating the operating schedule.

Enforcement

20.4 Upon review of a premises licence, the Licensing Authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:

- the modification of the conditions of the licence
- the exclusion of one or more licensable activity from the scope of the licence
- the removal of the designated premises supervisor
- the suspension of the licence for a period not exceeding 3 months
- the revocation of the licence.

NATIONAL GUIDANCE

Guidance from the Secretary of State:

Reviews

11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.

11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, 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.

11.3 The Regulations allow applications for reviews to be made electronically, as long as the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via business link or the licensing authority's electronic facility.

11.4 In addition, a review of the licence will follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.

11.5 Licensing officers may not initiate their own reviews of premises licences, but elected members of the licensing authority may request reviews if they are concerned about licensable activities at a premises or such matters are brought to their attention (see paragraph 8.15 above). Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as Environmental Health Officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.

11.6 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.

11.7 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

11.9 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.

11.10 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.11 Further information for interested parties about the review process is available in “Guidance for interested parties: applying for a review” which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

11.12 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.13 Licensing Authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.15 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.17 The Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such

warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the Licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.18 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.19 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.20 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.21 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

Annex D of Home Office Guidance

Pools of Conditions

PART 4 CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating

from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - A simple requirement to keep doors and windows at the premises closed;
 - Limiting live music to a particular area of the building;
 - Moving the location and direction of speakers away from external walls or walls that abut private premises;
 - Installation of acoustic curtains;
 - Fitting of rubber seals to doorways;
 - Installation of rubber speaker mounts;
 - Requiring the licensee to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;

- Require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- Noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

This list is not exhaustive.

Noxious smells

Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light Pollution

Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas.

Observations

The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the prevention of children from harm.

In making its decision, the Committee is also obliged to have regard to national Guidance and the Council's own Licensing Policy.

The Committee must also have regard to all of the representations made and the evidence it hears.

In determining the application the Committee can take such of the steps as it considers necessary for the promotions of the licensing objectives, which are:

- (a) take no further action.
- (b) to issue formal warning to the premises supervisor and/or premises licence holder(s)
- (c) to modify the conditions of the licence, by altering, omitting or adding to them where relevant
- (d) to exclude one or more licensable activities from the scope of the licence
- (e) remove the Designated Premises Supervisor
- (f) suspend the Premises Licence for a period not exceeding three months
- (g) revoke the Premises Licence

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be necessary in order to promote the licensing objectives.

ANNEX 1

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE UNDER THE LICENSING ACT 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I.....Alison King.....
(Insert name of applicant)

apply for the review of a premises licence under section 51 or apply for the review of a club premises certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below (Delete as applicable)

Part 1 Premise or club premises details

Postal Address of premises or, if none, ordnance survey map reference or description: The George Public House 261 High Street	
Post Town: Berkhamsted	Post Code (If known): HP4 1AB

Name of premises licence holder or club holding club premises certificate (if known) Katherine Wheway

Number of premises licence or club premises certificate (if known): DAC 007732
--

Part 2- Applicant details

I am

Please tick

- 1) An interested party (please complete (A) or (B) below)
 - a) A person living in the vicinity of the premises
 - b) A body representing persons living in the vicinity of the premises
 - c) A person involved in business in the vicinity of the premises
 - d) A body representing persons involved in business in the vicinity of the premises
 - e) vicinity of the premises
- 2) A responsible authority (please complete (C) below)
- 3) A member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (Fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First Names

Please tick

I am 18 years old or over

Current postal address if different from premises details

Post Town

Post Code

Daytime Contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and Address
Telephone Number
Email Address (Optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and Address: Dacorum Borough Council Civic Centre Hemel Hempstead Herts HP1 1HH
Telephone Number: 01442 228481
Email address: alison.king@dacorum.gov.uk

Please provide as much information as possible to support the application (Please read guidance note 2)

Please see attached to this application, an additional four pages.

Have you made an application for review relating to this premise before?

Yes No

If yes, please state the date of that application.

If you have made representations before relating to this premise please state what they were and when you made them.

- (i) Objection to an application for variation of premises licence 1st July 2010 in respect of the prevention of public nuisance licensing objective.

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate

Yes

- I understand that if I do not comply with the above requirements my application will be rejected

Yes

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO A LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 3 – Signatures (Please read guidance note 3)

Signature of applicant or applicants solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the application please state in what capacity.

Signature

Alisa King

Date

6th December 2011

Capacity

Technical officer

ADDITIONAL INFORMATION WITH APPLICATION FOR REVIEW

Re: THE GEORGE PUBLIC HOUSE 261 HIGH STREET BERKHAMSTED

Reason for review

An application is made to review The George Public House, Berkhamsted due to music and noise emanating from the premises which is undermining the Licensing Objective in respect of Prevention of Public Nuisance under the Licensing Act 2003.

History

Environmental Health have dealt with a considerable number of noise complaints from the premises over the past 10 years which has resulted in enforcement action being instigated by the means of Statutory Abatement Notices pursuant to the Environmental Protection Act 1990 and subsequently followed by three prosecutions at the Magistrates Court for breach of Statutory Abatement notices. Seizure of noise generating equipment has also been undertaken.

Complaints of noise have been received sporadically over the past 18 months, which has resulted in discussions and meetings being held with Mr & Mrs Wheway throughout the year and subsequently further investigations by Environmental Health.

Recent complaint

On 14th September 2011 a formal complaint was received by Environmental Health (via diary sheets) from a local resident alleging that noise from loud music and persons using the 'smoking area' were causing a nuisance in their home. They stated that the noise was specifically causing a problem in the bedroom at the rear of the property.

On 15th September 2011 Alison King held a conversation with Mark Wheway where she advised him of the complaint received and informed him that he must ensure the noise limiting device is used at all times when amplified music is played. Mark Wheway was informed that officers from Environmental Health would be visiting the area to assess the levels of noise and that recording equipment may be used. As a result of the complaints received, Environmental Health undertook their investigation of the complaints by the means of visits by Officers from Environmental Health and the installation of recording equipment into the complainants' property.

Noise levels and guidelines

The World Health Organisation Guidelines for Community Noise 2009 provides recommended noise levels for day and night exposure and also to avoid sleep disturbance.

It states that '*Measurable effects on sleep start at background noise levels of about 30 dB L_{Aeq}*'

It goes on to state that 'Where noise is continuous, the equivalent sound pressure level should not exceed 30 dBA indoors if negative effects on sleep are to be avoided..... When the noise is composed of a large proportion of low-frequency sounds a still lower guideline value is recommended, because low-frequency noise can disturb rest and sleep even at low sound pressure levels.'

The British Standard 8233:1999 also provides recommendations for the control of noise in and around buildings.

The standard suggests internal noise level of $L_{Aeq, T}$ of 30dB within bedrooms is a good standard, whilst 35dB is a reasonable standard. It also recommends that individual noise events should not normally exceed L_{AFmax} 45dB in bedrooms at night.

Visits were made by Kathryn Ashton, Environmental Health Team Leader, and Richard Mabbitt, Licensing Enforcement Officer on 30 September 2011. This visit was made to the George Public House at approximately 10.40pm . There were several people in the rear area of the premises within an area which was used as a smoking area. Photographs were taken of this area.

On 21st October 2011 a visit was made to the complainants property at 10.45pm. The noise from the George Public House was clearly audible within the rear bedroom of the complainants' property. The noise comprised loud voices and shouting from persons within the smoking area of the premises and also low frequency bass levels were also audible within the rear first floor bedroom. Witness statements have been provided by the Officers.

Noise monitoring was also carried out using a digital audio tape, located within the complainants' property, over two weekends, Friday 4th and Saturday 5th November 2011 and Friday 11th and Saturday 12th September 2011. This data was subsequently downloaded and analysed which can be made available to the Committee if required

It is considered that from visits and data from the noise monitoring, that the Licensing Objective in respect of the Prevention of Public Nuisance is clearly being undermined as a result of such disturbance. In addition to this Environmental Health has also substantiated a Statutory Noise Nuisance and a Noise Abatement Notice will be served pursuant to Section 80 of Environmental Protection Act 1990.

Licensing conditions:

I am aware that there are currently conditions attached to the Premises Licence as follows:

- (i) Noise limiting device installed for the incidental bar room music to be reset at a level agreed by Environmental Health division when the windows and doors are open. Noise limiter to be used at all times.
- (ii) Patrons will be required to leave the beer garden and return to the bar area at 22:30 hours.
- (iii) Smokers will be allowed to access only the sunken area of the garden after 2230hours.
- (iv) The playing of music will cease at the same time as the cessation of the sale of alcohol.

- (v) No live music will be played at the premises.
- (vi) CCTV cameras will monitor the rear garden area.

However it is considered that these conditions are insufficient to prevent such disturbance and undermining of the licensing Objective in respect of Prevention of Public Nuisance.

Summary

Evidence is provided by the complainants, Officers from Environmental Health and the data from the Digital Audio Tape Recording Equipment, which reveal not only are the conditions attached to the Premises Licence and the Planning consent being breached, the level of the disturbance caused by the current use of the premises is undermining the Licensing Objective in respect of Prevention of Public Nuisance. (The breach of planning conditions has been passed the Councils Planning Division for their action).

The noise recordings that were taken from the neighbouring property provide data that the noise emitted from rear area of the premises clearly exceed those as given in the guidelines by the World Health Organisation.

Additional

Smoking Shelter

I am aware that a planning application (4/01785/19/FUL) was submitted by the client in 2007 to remove sections of existing walls at the rear of the premises to form a covered area within the courtyard as a smoking shelter.

For information to the Licensing and Health and Safety Sub Committee, the planning application was granted with conditions 4 and 5 of the approval that:

Condition 4:

In accordance with the condition attached to the beer garden, the smoking shelter hereby permitted shall only be open to customers until 2230hrs. After that time, all patrons are required to leave this area and return to the bar area.

Reason: *In the interest of the amenities of the occupants of neighbouring dwellings.*

Condition 5:

No form of entertainment or music shall take place anywhere within the smoking shelter hereby permitted. The double doors leading from the pub into this area should remain shut at all times.

Reason: In the interest of the amenity of adjoining residents.

An informative was also placed on the approved planning consent that:

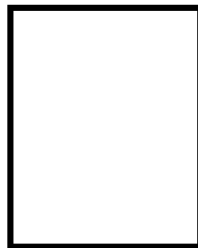
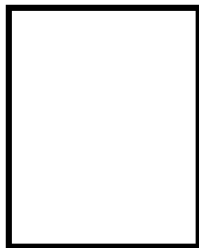
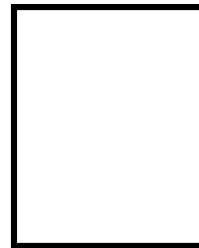
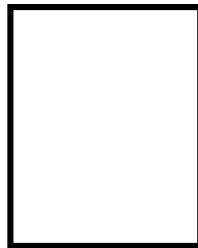
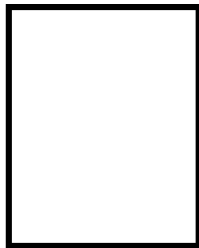
In order to comply with the 'smoke free legislation', this shelter must not be enclosed or substantially enclosed. This means that if there is a ceiling or a roof. There must be an opening in the walls of more than 50%. This includes separate structures that serve the purpose of walls such as the pub buildings and existing fences.

Planning approval was therefore granted with these conditions to be in place to prevent a noise nuisance being caused to neighbouring properties.

When Officers from Environmental Health have visited the premises - it is considered that the smoking shelter does not comply with the with the requirements of smoke free legislation under the Health Act 2006.



**NOTICE OF APPLICATION FOR A
PREMISES LICENCE REVIEW UNDER
THE LICENSING ACT 2003**



Notice is hereby given that Dacorum Borough Council has received an application for a review of the premises licence in respect of **THE GEORGE PUBLIC HOUSE 261 HIGH STREET BERKHAMSTED HERTS HP4 1AB**

Representations relating to this application can be submitted in writing to Dacorum Borough Council at the address below from **7th December 2011** until **4th January 2012**.

The grounds for review relate to the undermining of the Prevention of Public Nuisance Licensing objective caused by noise from the premises, and from patrons using the outside seating/smoking area.

The Licensing Authority Register and the grounds for the Review can be seen at www.dacorum.gov.uk, and full details can be viewed between the hours of 8:45am to 5:15pm by appointment with:

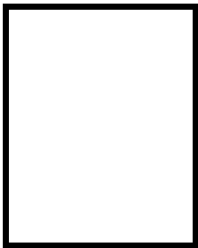
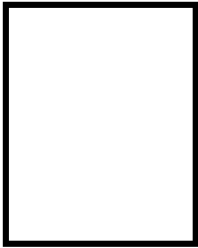
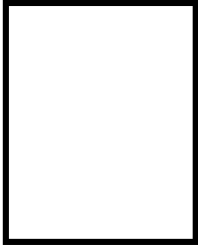
Dacorum Borough Council
Civic Centre
Marlowes
Hemel Hempstead
HP1 1HH
Tel: 01442 228860 or 228470

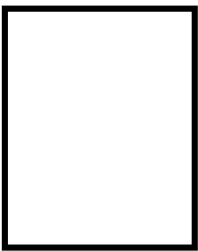
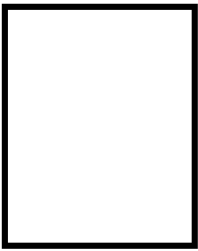
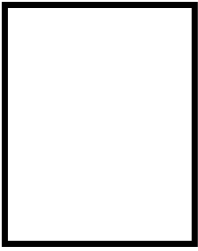
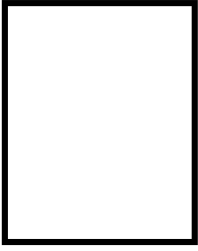
It is an offence to knowingly or recklessly make a false statement in connection with an application. The maximum fine for which a person is liable on summary conviction for the offence is £5000

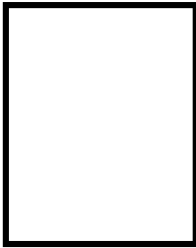
PREMISES LICENCE

Licensing Act 2003

Premises Licence Number: DAC 007732







Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description:			
The George P H			
Address: 261 High Street			
Post town:	Berkhamsted	Post code:	HP4 1AB
Telephone number:	862950		

Licensable activities authorised by the licence:

Sale by retail of alcohol
Live music
Recorded Music
Anything of a similar description to live music, recorded music and performances of dance
Provision of facilities for dancing

The opening hours of the premises:

Monday 11:00 hours until 00:00 hours
Tuesday 11:00 hours until 00:00 hours
Wednesday 11:00 hours until 00:00 hours
Thursday 11:00 hours until 00:00 hours
Friday 11:00 hours until 01:30 hours
Saturday 11:00 hours until 00:30 hours
Sunday 11:00 hours until 00:00 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:30 hours.

Sale by retail of alcohol

FOR CONSUMPTION ON AND OFF THE PREMISES

Monday 11:00 hours until 23:30 hours
Tuesday 11:00 hours until 23:30 hours
Wednesday 11:00 hours until 23:30 hours
Thursday 11:00 hours until 23:30 hours
Friday 11:00 hours until 01:00 hours
Saturday 11:00 hours until 00:00 hours
Sunday 11:00 hours until 23:30 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:00 hours.

Live Music

Indoors only – Karaoke, no live bands

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Recorded Music

Indoors only – amplified with noise limiter

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Anything of a similar description to live and recorded music and performance of dance

Indoors only – Quiz nights, karaoke and discos

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Provision of facilities for dancing

Indoors only

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:

On and off sales permitted

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence:

Name: Katherine Jane Wheway
Address: 7 Meadow Way Hemel Hempstead HP3 0AT
Telephone Number: 240766
E-mail Address:

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

Registration Number: N/a

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

Name:	Jennifer Helen Lee
Address:	37 Ridgeway, Berkhamsted, Herts, HP4 3LD
Telephone Number:	

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:	DAC 023431	Issuing Authority:	Dacorum Borough Council
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Where the licence is time limited the dates:

None

Date issued: 27th September 2006

Signed _____

On behalf of Steven Baker

Assistant Director

(Legal, Democratic and Regulatory)

NOTES

This licence is issued subject to the provisions of the Licensing Act 2003 and subject to the attached conditions (including those in the Operating Schedule).

POSSESSION OF THIS DOCUMENT DOES NOT GUARANTEE THAT THE LICENCE IS IN FORCE NOR DOES IT IMPLY THAT THE PREMISES ARE FIT FOR USE. ITS VALIDITY MAY BE ESTABLISHED BY REFERENCE TO THE COUNCIL'S LICENSING OFFICER.

MANDATORY CONDITIONS

Where licence authorises supply of alcohol

- (1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
- (2) The first condition is that no supply of alcohol may be made under the premises 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.
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- (4) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (5) In this paragraph, 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children –
 - (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 fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in Section 159 of the Act);
 - (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 24 hours or less;

- (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –
- (i) The outcome of a race, competition or other event or process, or
 - (ii) The likelihood of anything occurring or not occurring.
- (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the 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.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
3. The responsible person shall ensure that free tap water is provided on request to a customer where it is reasonably available.

Smaller measures

The responsible person must ensure that the following drinks if sold or supplied on the premises are available in the following measures:

- beer or cider - half pint
- gin, rum, vodka or whisky - 25ml or 35ml
- still wine in a glass - 125ml

As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures – for example, by making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent place in the relevant premises (e.g. at the bar).

The above condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the condition to make it available in ½ pints does not apply.

Exhibition of films

- (1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- (2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- (3) Where
- (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

- (4) In this section –
- “children” means persons aged under 18; and
 - “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39)(authority to determine suitability of video works for classification)

Door Supervision

- (1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
- (2) But nothing in subsection (1) requires such a condition to be imposed –
- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
- (b) in respect of premises in relation to –
- (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
- (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- (3) For the purposes of this section –
- (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and
- paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Protection from Children from Harm – Age Verification Policy

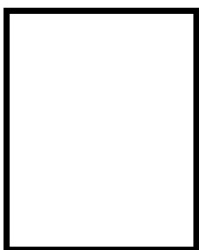
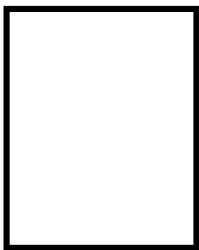
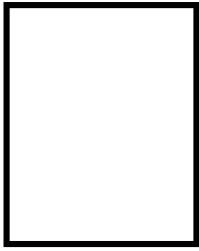
1. The Premises Licence Holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
2. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.”.

PREMISES LICENCE SUMMARY

Licensing Act 2003

Premises Licence Number: DAC 007732







Premises details

Postal address of premises, or if none, ordnance survey map reference or description:		
Address:	The George P H 261 High Street	
Post Town:	Berkhamsted	Post code: HP4 1AB
Telephone number:	862950	

Licensable activities authorised by the licence:
Sale by retail of alcohol
Live music
Recorded music
Anything of a similar description to live music, recorded music and performance of dance
Provision of facilities for dancing

The opening hours of the premises:

Monday	11:00 hours until 00:00 hours
Tuesday	11:00 hours until 00:00 hours
Wednesday	11:00 hours until 00:00 hours
Thursday	11:00 hours until 00:00 hours
Friday	11:00 hours until 01:30 hours
Saturday	11:00 hours until 00:30 hours
Sunday	11:00 hours until 00:00 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:30 hours.

Sale by retail of alcohol

FOR CONSUMPTION ON AND OFF THE PREMISES

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:00 hours.

Live music

Indoors only – Karaoke, no live bands

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Recorded music

Indoors only – amplified with noise limiter

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Anything of a similar description to live and recorded music and performance of dance

Indoors only – Quiz nights, karaoke and discos

Monday	11:00 hours until 23:30 hours
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Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Provision of facilities for dancing

Indoors only

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours

Sunday

11:00 hours until 23:30 hours

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:

On and off sales permitted

Name, (registered) address of holder of premises licence:

Name: Katherine Jane Wheway

Address: 7 Meadow Way Hemel Hempstead HP3 0AT

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

Registration Number: N/a

Name of designated premises supervisor where the premises licence authorises the supply of alcohol:

Name: Jennifer Helen Lee

Where the licence is time limited the dates:

None

Date issued: 27th September 2006

Signed:

**On behalf of Steven Baker
Assistant Director
(Legal, Democratic and
Regulatory)**

Licensing Act 2003
Premises Operating Schedule Conditions

Premises: The George P H
Premises Address: 261 High Street Berkhamsted HP4 1AB
Licence number: DAC 007732 **Date:** 27th September 2006

HOURS PREMISES ARE OPEN TO THE PUBLIC

Monday	11:00 hours until 00:00 hours
Tuesday	11:00 hours until 00:00 hours
Wednesday	11:00 hours until 00:00 hours
Thursday	11:00 hours until 00:00 hours
Friday	11:00 hours until 01:30 hours
Saturday	11:00 hours until 00:30 hours
Sunday	11:00 hours until 00:00 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:30 hours.

SALE BY RETAIL OF ALCOHOL

FOR CONSUMPTION ON AND OFF THE PREMISES

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

Christmas Eve and New Year's Eve from 11:00 hours until 02:00 hours.

LIVE MUSIC

Indoors only – karaoke, no live bands

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

RECORDED MUSIC

Indoors only – amplified with noise limiter

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

ANYTHING OF A SIMILAR DESCRIPTION TO LIVE AND RECORDED MUSIC AND PERFORMANCE OF DANCE

Indoors only – Quiz nights, karaoke and discos

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

PROVISION OF FACILITIES FOR DANCING

Indoors only

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 01:00 hours
Saturday	11:00 hours until 00:00 hours
Sunday	11:00 hours until 23:30 hours

GENERAL STATEMENT OF LICENSING OBJECTIVES

Operation of goldcard Membership scheme so that only members can enter the premises on Friday and Saturday nights.

Signs are clearly displayed at the premises asking patrons to leave quietly and to use the toilet facilities before they leave.

SIA qualified staff to operate as door security on Friday and Saturday from 20:00 hours to the time the premises are closed to the public to prevent admission of undesirable members of the public and to control dispersal on the street, outside the door and for the latter purpose the SIA qualified staff will remain on the street for 15 minutes after closing time.

Customers will not be permitted entry after 00:00 hours.

That the Management use best endeavours to prevent customers from leaving the premises with glass drinking vessels, open bottles or similar during opening hours and in particular at closing time (except for genuine off-sales or where external seating areas are being used).

The fence and double gate at the rear of the premises to be repaired by 13th September 2006 and to be kept padlocked.

A noise limiter device will be used at the premises at all times.

No music will be played at the premises after the permitted time for sale of alcohol has ended, i.e. 30 minutes before closing time.

THE PREVENTION OF CRIME AND DISORDER

Signs are displayed at the premises outlining the zero tolerance policy to drugs and violent or disrespectful behaviour.

Regular checks are carried out by staff throughout the period where the premises are open to the public.

PUBLIC SAFETY

Three internet web cameras capable of remote access and recording to monitor the inside of the premises.

THE PREVENTION OF PUBLIC NUISANCE

Noise limiting device installed for the incidental bar room music to be re-set at a level agreed by the Environmental Health Division when the windows and doors are open. Noise limiter to be used at all times.

Patrons will be required to leave the beer garden and return to the bar area at 22:30 hours.

Smokers will be allowed to access only the sunken area of the garden after 22:30 hours.

Patrons will be advised by staff to use only two specified taxi companies.

The playing of music will cease at the same time as the cessation of the sale of alcohol.

No live music will be played at the premises.

CCTV cameras will monitor the rear garden area.

THE PROTECTION OF CHILDREN FROM HARM

The premises operates a strict policy towards preventing underage drinking including displaying signs warning customers that photographic identification will be required for those who look under the age of 21.

A notice will be displayed indicating that it is illegal to purchase offsales for consumption by persons under the age of 18.

ANNEX 5

Nathaniel and Catherine
McDowell
259 High Street,
Berkhamsted,
Hertfordshire,
HP4 1AB.

3rd January 2012

The Licensing Officer,
Dacorum Council,
Civic Centre,
Marlows,
Hemel Hempstead,
HP1 1HH.

RE: Representation with respect to review of The George Public House.

Dear Sir or Madam.

Firstly we would like to state that the issues we have been experiencing at the rear of our property are not new or isolated incidents of nuisance behaviour and have been highlighted to the Council numerous times since the smoking area had its permitted hours of use extended.

Prosecutions in the past have been related to nuisance noise caused by amplified music, however recent changes to the smoking laws within licensed premises has resulted in nuisances of a different nature

We continue to have a number of concerns relating to the permitted operating schedule of the premises not being adhered to namely :-

- Ineffective door management being one example which was raised with Licensing in July 2009. This resulted in the Wheways being advised via mail by PC 1572 Martin Fisher that two door supervisors were required on Friday and Saturday nights. (Ref: SIA staffing issues – 9th July 2009)

The Wheways continue to operate with one door supervisor, the latest person to fill this placement does not wear an identification armband which suggests they are not SIA registered.

- One of the assurances we continue to hear from the Wheways is regarding their robust “Strict Over 21” and “Gold Membership Card” door entry policies. In the last three months we have seen a widely reported account of a dreadful attack on two teenagers having recently left the George pub one Saturday night in Sept 2010, it was reported that they were 17 at the time

which contravenes the defined protection of children from harm licensing objective.

- Impact of disturbance from the smoking area
 - Unable to use our back bedroom
 - Unable to use the garden in the summer
 - Noise from the smoking area heard clearly throughout the top floor of our property and in the kitchen diner.
 - Unable to have living room French doors open in the summer
 - Unable to have our daughter's bedroom window open

- Contributing factors of disturbance
 - Music equipment has been moved to a location close to the rear doors.
 - At least once a month the rear doors of the pub are left open for lengthy periods of time allowing intrusive nuisance noise to escape and affect us and our property. In the summer months the frequency is higher.
 - When the automatic door return mechanisms are in operation, constant opening and closing of the rear doors on busy nights still causes disruption due to the unacceptable levels of music emanating from the pub, DJ's are employed most Friday and Saturday evenings and pump out bass heavy dance music. This can clearly be heard on the recording taken on the night of the 24th of December 2011 at 23:04 and is also referenced in my diary sheet entry for the same date.
 - Behaviour of persons using the smoking area is unregulated. Unruly behaviour and obscene language are common place right up until closing time. Again refer to recordings taken in our back bedroom.
 - The smoking area is heated and has a television installed which in effect converts it into an extension of the bar and ensures noisy crowds (especially during football matches) remain encamped in the smoking area.
 - Management and pub staff go out of their way to promote a party (club) atmosphere, not once in four years have we witnessed the staff telling clientele to moderate their behaviour. Disappointingly this behaviour remains unchanged in spite of the Wheways being informed of the review. This is evidenced in the most recent recordings from December 2011.

- We have ongoing concerns regarding how Mark Wheway conducts himself, in spite of door staff being present we routinely have to go out to the front of our house and ask pub goers to move off our property, on many of these

occasions Mark Wheway has come out of the pub to investigate further and we have observed that he is intoxicated.

I understand from reading the local papers that this behaviour has impacted on the personal lives of both Mr and Mrs Wheway, both are currently banned from driving as a result of being caught drink driving and are currently serving lengthy disqualification periods for second offences.

- From a business perspective, in 2009 the limited company under which he Wheways operated (Alchemist Limited - Company Number 2848628) was voluntarily liquidated and a new company formed (ICatching UK Limited - Company Number 06922398) to undergo the exact same business with the same suppliers.

The practise of creating a phoenix company may be permitted by UK law but using such a financial vehicle for the purpose of evading payment of Corporation Tax etc to the HMRC is objectionable behaviour and certainly not something a well run business would ever consider undertaking.

In summation, we believe we have demonstrated and proven that the Wheway's have abused the faith placed in them by the Council since the permitted hours of the smoking area were extended.

Diary sheets outlining all incidents and observations for the last 5 months have been provided to Env. Health, sound recorders have been installed by Env. Health over three weekends in November and December 2011 and Kathryn Ashton from the Licensing Department visited our premises on the night of the 21st October 2011 and witnessed audible noise from the smoking area in our back bedroom.

At the licensing sub-committee meeting in Aug 2008 Councillor Allan Lawson warned the Wheways not to let down the local residents or abuse the new rules they had been granted, we remind the committee to recall that they stated if disturbances occurred then they would deal with it in the most severe way.

The Committee need only listen to one of the tape snippets taken late on any Friday/Saturday night and ask themselves one question. Is it reasonable and acceptable that Mr & Mrs McDowell and their young family endure this behaviour each week?

If the answer is No then please take this opportunity to return the enjoyment of our possessions to us which has been denied to us for such a long time now. This basic human right has been kept from us by the continued mis-management of the pub and the wayward behaviour of a crowd of drunks.

Finally, we would like to provide a few suggestions which would greatly improve the quality of our lives if implemented

- Music be turned off earlier in the evening e.g. 23:00 to allow for a cooling off period prior to closing, and the smoking area to be vacated at a more

reasonable hour, this would stop impromptu karaoke sessions in the smoking area at 1 am in the morning (refer to nuisance diary sheet for the 5th Nov 2011, event was recorded by the Env. Health recording equipment at 1:04 am on the 6th Nov 2011)

- Additional measures to be placed on the way the smoking area is used to ensure large crowds do not take up residence with all of the problems and issues that this generates i.e no drinks permitted in the smoking area.

Yours Sincerely
Nathaniel & Catherine McDowell

6. LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE PROCEDURE

Introduction

The four licensing objectives, as established by the Licensing Act 2003, are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance and
- the protection of children from harm.

Each application that comes before the Sub-Committee will be treated on its own merits, and this Licensing Authority will take its decision based upon:

- the merits of the application;
- the promotion of the four licensing objectives;
- the policy of the Licensing Authority, a copy of which can be obtained from the Council's Licensing Officer;
- the guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport in July 2004, as amended in July 2006 and as further amended in June 2007.

Procedure

The procedure of the Sub-Committee will be as follows:

1. The Chairman will open the meeting by:
 - (a) Introducing the Members of the Sub-Committee, (at the same time indicating any change in membership), and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - (b) stating the nature of the matter to be considered, (including a reference to the name of the premises or place concerned) and
 - (c) explaining the procedure to be followed.
2. The Chairman will ask those present to introduce themselves and:
 - (a) if any party, without prior notice, fails to attend or to be represented, the Sub-Committee will consider whether or not it is necessary in the public interest to adjourn the hearing to a specified date;
 - (b) if any party is unaccompanied, the Chairman will clarify whether that party understood it was permissible to have a representative;
 - (c) the Chairman will establish whether it is proposed anyone speak as a spokesperson;
 - (d) the Sub-Committee will consider:
 - (i) any properly made request by a party for permission for any other person, (not being a representative), to appear and
 - (ii) any request to provide late documentary or other information and will only take the same into account if the other parties consent.
3. The Chairman will ask whether any Member has an interest to declare and whether any Member has visited the premises or place the subject of the application.

4. The Chairman will establish whether all Members of the Sub-Committee have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to summarise any relevant information, as necessary.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask each person who is to speak at the meeting for an indication of how much time he or she reasonably estimates is required to make relevant points concisely, and without undue repetition, and will consider a maximum period of time to be applied equally in the case of all the parties.
8. The Sub-Committee will hear from the Applicant (and any proposed Premises Supervisor, if applicable), any Responsible Authority and any Interested Party (in that order, except in the case of a Review where the order will be: the Interested Party or Responsible Authority which has made the application for Review, the Licence-Holder and any Interested Party and/or Responsible Authority which has not made the application for Review). Subject to 2 (d)(ii) above, those persons speaking may only raise points which have been made in writing prior to the meeting and/or give further information, by way of clarification of a point, if this has been sought by the Authority in the notice given by it prior to the hearing.
9. In every case at a suitable point, Members of the Sub-Committee may ask relevant questions of each party.
10. The Sub-Committee will consider any party's request to question/cross-examine another party and will not permit cross-examination unless it is of the view that it is required in order for Members to consider the representations, application or notice as the case may be.
11. The Chairman will invite any Interested Party, any Responsible Authority and the Applicant (in that order, except in the case of a Review where the order will be: any Interested Party and/or any Responsible Authority which has not made the application for Review, the Licence-Holder and the Interested Party or Responsible Authority which has made the application for Review), or those representing them, to summarise their points if they wish. At this stage, the Applicant will be afforded the opportunity to consider whether or not to propose amendments to the operating schedule with a view to addressing relevant issues and any such amendment would then fall to be discussed.
12. The Chairman will seek confirmation from all parties that they are satisfied they have made all the pertinent points which they wished to make.
13. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision.
14. The Chairman will confirm the decision, the reasons for the decision, and any condition placed upon the licence (if granted) and the licensing objective to which each condition relates.

Please Note

- All properly made applications, notices and representations received from absent parties will be considered.
- An Applicant has a right to appeal, details of which can be obtained via the Licensing Officer.

- The Authority has the right to require any person who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may preclude, or impose conditions in relation to, that person's return.

7. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1 as amended by the Local Government (Access to Information) (Variation) Order 2006 the public be excluded during the item in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during that item there would be disclosure to them of exempt information relating to:

DACORUM BOROUGH COUNCIL

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

19 OCTOBER 2011

Present –

MEMBERS:

Councillor Lawson (Chairman), Councillors Green and Sutton

OFFICERS:

B Lisgarten (Team Leader – Legal Governance) (Barrister)
K Ashton (Team Leader – Environmental Health & Licensing)
R Mabbitt Licensing Enforcement Officer
A King Environmental Health Officer
N Blessing Member Support Officer

Other Persons Present:

A Wheeler Licensee (Three Black Birds)
S Le Fevre Solicitor Representing A. Wheeler

The meeting began at 3:05 pm

1. INTRODUCTIONS

The Chairman introduced himself, the Councillors on the Sub-Committee and the officers present. The Chairman then asked the other persons present to introduce themselves.

2. MINUTES

The Minutes of the meeting held on 20 September 2011 were agreed by the Members present and then signed by the Chairman.

3. APOLOGIES FOR ABSENCE

There were no apologies for absence.

4. DECLARATIONS OF INTERESTS

No interests were declared.

Councillor Lawson declared that he had visited the inside of the premises.

Councillor Green informed the Sub-Committee that she had neither been inside the premises nor visited its location.

Councillor Sutton stated that he had visited the inside of the premises.

5. LICENCE HEARINGS

The application was for:

**Three Black Birds
194 St Johns Road
Hemel Hempstead
Hertfordshire
HP1 1NR**

The Chairman asked the Members of the Sub-Committee if they had read the Agenda and all additional documents. Councillors Peter and Douris confirmed they had read the documents at hand.

The Chairman asked that all legal obligations had been complied with. R Mabbitt informed him that they had.

The Chairman asked if there were any additional documents to be submitted to the Sub-Committee to which he was told by K Ashton that there was not.

The Applicant was invited by the Chairman to make a short statement. S Le Fevre introduced herself as the representative for A Wheeler. She added that an amendment to the application had been proposed prior to the Sub-Committee meeting by Environmental Health. K Ashton read the amendment which stated:

“prior to the proposed regulated entertainment taking place three times per week, a full Noise Impact Assessment shall be undertaken. The Noise Impact Assessment must be undertaken by a competent Acoustic Consultant and shall be submitted to and approved by Environmental Health. All identified necessary works as agreed between the licensing authority and Spirit Pub Company, shall be undertaken prior to such entertainment taking place.”

The Chairman sought clarity and asked if he was correct in saying that Environmental Health agreed to make changes for noise reduction but not until the works being carried out have finished. K Ashton informed the Chairman that was correct but she was not sure what the applicant was prepared to offer.

S Le Fevre informed the Sub-Committee that the Licensee was very experienced and worked with the parent company for two years and had been a licensee for the last ten years. She felt that the application was limited as it only asked for a change in hours on New Years Eve. S Le Fevre explained that the application duplicated existing laws.

Members were told that one of the conditions related to the opening and sealing of doors and windows. The licence condition prior to the meeting stated “that all windows and doors to be kept securely closed, subject to Fire and Health and Safety Regulations.” S Le Fevre asked the Sub-Committee that this be changed to “all windows and doors to be kept securely closed during regulated entertainment save to allow front facing windows to be opened and one fire exit door front facing away from the music area to be opened.”

S Le Fevre felt that the crux of the application was the request for the replacement of the condition “public entertainment to be limited to two occasions per fortnight” with “public entertainment to be limited to three occasions per week.” A Wheeler was asked what types of public entertainment would take place. The Sub-

Committee was informed that it would mostly be, Discos, DJs and occasionally a band.

The two significant conditions were the use of a noise monitor and the windows which would be double glazed. S Le Fevre informed the Sub-Committee that both conditions had been agreed with Environmental Health.

S Le Fevre acknowledged that there had been several complaints raised against the premises but highlighted to the Sub-Committee that all the complaints came from only two properties. She also stated that their properties were on the far side of the premises. S Le Fevre told the Sub-Committee that there were other properties that were closer to the premises and no complaint had come from them. She said that the complaints had been sustained but not witnessed.

S Le Fevre stated that the licensee had brought in experts to assess the sound levels. She told the Sub-Committee that she had also walked around the premises and felt that there were minimal sound levels. S Le Fevre said that the management of sound insulation had improved as a result of having a sound limiter and double glazing being installed.

S Le Fevre informed Members that there was a church beside the premises. She told the Sub-Committee that one of the complaints had been on an evening where no event had taken place at the premises but an event was on at the church.

S Le Fevre highlighted to the Sub-Committee a number of licence conditions that are historic and no longer valuable. She requested that points 11, 15 and 31 be removed. S Le Fevre also wanted point 49 removed due to its irrelevance as it regarded hypnotism but did concede that she lacked knowledge in this area. K Ashton informed the Sub-Committee that Environmental Health had been happy with the majority of proposals except point 49.

Having debated the conditions on the licence the following will remain with the other conditions being removed. The conditions to remain are 4.b, 10, 27, 40 and 49. Of the six points at the end, 2, 4 and 5 will remain with 1, 3 and 6 to be removed.

The Chairman asked about the sound monitors that were to be installed and if they were able to reduce the levels of bass. S Le Fevre told the Sub-Committee that it was difficult to reduce the emission of bass sound levels. However, she did state that the Licensee was putting into place a high quality sound monitor.

Councillor Sutton raised concerns over the level of sound being emitted in particular the levels of bass. He felt that it could be emitted by vibration as well as sound. S Le Fevre told the Member that this was a difficult issue to correct and she felt one of the best ways was to alter the output. She did point out to Members that some individuals' sound levels and tolerances differ from others. She stated that it was the Licensee's intention to work with the DBC and local residents to create as little sound impact as possible.

S Le Fevre turned to A Wheeler and asked her a series of questions. S Le Fevre asked how many days she worked behind the bar, if she lived there, if there was alternative management in place, and how the sound levels are managed. A Wheeler explained to the Sub-Committee that she worked 6 days behind the bar; lives on site; has a duty manager who has been employed at the Three Black

Birds for the last 18 months; and staff check the sound levels outside the building everyday and record the readings.

Councillor Green asked why the licence should allow for windows to be opened. A Wheeler explained that with the number of people who attend the premises when it is busy the heat builds up and the opening of the windows would allow for a reduction in the heat.

The Chairman asked if there had been complaints from residents on other roads adjacent to the Premises. A King informed the Sub-Committee that there had been other complainants.

A Wheeler was questioned by the Chairman as to why the additional nights for entertainment were needed. Members were informed by A Wheeler that the additional nights were required to be more competitive.

Councillor Sutton asked if air conditioning was to be installed as part of the refurbishment of the building. Members were told that it had not been discussed or proposed. However, it would not be a massive cost and it had been installed in other bars owned by Spirit Pub Company and could be carried out in this bar.

Councillor Sutton asked how many premises Spirit Pub Company own. The Sub-Committee was informed that they owned 1300 premises including the following brands: Flaming Grill, Flair and Square, and John Barrettes (due for a re-launch). Members were also told that Spirit Pub Company catered for families.

The Chairman asked the licensing officer if he had anything he wanted to add but the Chairman was told that he did not. Environmental Health was also asked if they had any comments they wanted to make. A King said noise complaints that were raised were initially dealt with by lowering the volume but after a few weeks the sound levels had increased back to previous levels. She also made the Sub-Committee aware that Environmental Health was unhappy with the proposal that windows and doors be allowed to open.

K Ashton told the Sub-Committee that they were trying to work with Spirit Pub Company and A Wheeler to find solutions to sound levels rather than spending money on unnecessary sound equipment.

The Chairman asked the Sub-Committee if they were ready to go through each of the six requests within the application. The Members agreed to point one. Moving to request two Councillor Green asked why the applicant wanted to have the serving of refreshments extended to 2.30am. She was informed by S Le Fevre that this was a limited selection of refreshments and did not include hot food. Points two, three and four were then agreed.

The Chairman brought forward point five of the application which he felt was a large increase against the original licence. The Chairman said that he had been quite impressed by the information he had received from the applicant. He also acknowledged that with the current economic climate it was very tough for businesses to continue to be successful and as a result he supported point five. Councillor Sutton admitted that he was only partially in agreement but as long as it was reviewed then he would accept the request. It was Councillor Green's belief that three occasions per week was excessive and she favoured twice a week. The Chairman asked that it be brought to a vote. Councillors Lawson and Sutton voted in favour of request five of the application with Councillor Green voting against.

At this point the Chairman brought to the Sub-Committee's attention the condition that had been proposed by Environmental Health on the Noise Impact Assessment (see page 2 of minutes). As the decision for point five of the request of the application had been agreed the Chairman sought legal advice about whether it was possible to add the amendment. B Lisgarten informed the Sub-Committee that as the decision had been voted on it was not possible to reverse the vote. Councillor Green asked B Lisgarten if there was anyway the condition could be added to point five of the request. B Lisgarten told Members there was not a way of adding to the decision. She said that the applicant could only be asked to carry out the condition. S Le Fevre informed the Sub-Committee that the applicant would be happy to provide assurances.

The Chairman then moved onto point six. He acknowledged that there had been no complaints and as a result he was happy to agree it. Councillor Sutton also supported the application but asked that that the applicant consider the installation of air conditioning. Councillor Green also voted for point six of the application.

Agreed:

The Licensing of Alcohol and Gambling Sub-Committee, having had regard to Section 182 of the National Guidance and Dacorum Borough Council's own Licensing Policy and the four Licensing Objectives of the Licensing Act 2003 and having taken into account all oral and written representations, in accordance with the voting and reasoning indicated above, agree to grant the premises licence as set out below.

Section E – Performance of Live Music (Indoors Only):

Standard Timings are as follows:

Monday to Thursday – 10:00 to 23:30 hours

Friday to Saturday – 10:00 to 00:00 hours

Sunday – 10:00 to 23:00 hours

Non-Standard Timings are as follows:

Until 01:45 hours the following morning on New Years Eve

Section F – Playing of Recorded Music (Indoors Only):

Standard Timings

Monday to Thursday – 10:00 to 23:45 hours

Friday to Saturday – 10:00 to 00:30 hours

Sunday – 10:00 to 23:15 hours

Non-Standard Timings

Until 01:45 hours the following morning on New Years Eve

Section H – Entertainment of a Similar Description to that falling within (E), (F) or (J) (Indoors Only):

Standard Timings

Monday to Thursday – 10:00 to 23:30 hours

Friday to Saturday – 10:00 to 00:00 hours

Sunday – 10:00 to 23:00 hours

Non-Standard Timings

Until 01:45 hours the following morning on New Years Eve

Section J – Provision of Facilities for Dancing (Indoors Only):

Standard Timings

Monday to Thursday – 10:00 to 23:30 hours

Friday to Saturday – 10:00 to 00:00 hours

Sunday – 10:00 to 23:00 hours

Non-Standard Timings

Until 01:45 hours the following morning on New Years Eve

Section L – Late Night Refreshment (Indoors Only):

Standard Timings

Monday to Thursday – 23:00 to 23:30 hours

Friday to Saturday – 23:00 to 00:00 hours

Non-Standard Timings

Until 02:30 hours the following morning on New Years Eve

Section M – Supply of Alcohol:

Standard Timings

Monday to Thursday – 10:00 to 23:30 hours

Friday to Saturday – 10:00 to 00:00 hours

Sunday – 10:00 to 23:00 hours

Non-Standard Timings

Until 02:00 hours the following morning on New Years Eve

Section O – Hours Premises Are Open to the Public:

Standard Timings

Monday to Thursday – 10:00 to 23:45 hours

Friday to Saturday – 10:00 to 00:30 hours

Sunday – 10:00 to 23:15 hours

Non-Standard Timings

Until 02:30 hours the following morning on New Years Eve

Section P – Promotion of the four Licensing objectives:

Section (a) General

As per existing conditions save for those removed or amended as part of this application.

Section (b) The prevention of crime and disorder

No change from application

Section (c) Public safety

No change from application

Section (d) Prevention of public nuisance

No change from application

Section (e) The protection of children from harm

No change from application

The following conditions will be applied:

4. (b) The Licensee must ensure that music provided at the premises will not cause a nuisance to nearby residents and any form of amplification must be so controlled by the Licensee as to prevent such nuisance.
 10. All exit doors shall be available for egress during the whole time that the public are on the premises. Parking in close proximity to the exits shall not be permitted if it is likely to impede the egress of persons leaving the premises
 27. (a) real flame or smoking must not be used in entertainment unless –
 - (i) The written consent of the Council is obtained, and
 - (ii) in the opinion of the Council –
 - the use of the real flame is essential to the action as distinct from the atmosphere of the entertainment or its effective presentation, and
 - an electric substitute cannot be used.
 - (b) Application for the Council's consent to the use of real flame must be made by the licensee, in writing, at least fourteen days before the first performance of the entertainment and must give full details of the proposed use of real flame and date and time of any rehearsal.
 - (c) Pyrotechnics, explosives or highly flammable substances must not be used, except with the written consent of the Council.
40. Socket outlets for use with temporary or portable electrical equipment on any stage area must be of the type protected by a Residual Current Device (RCD) having a 30mA tripping current.

Note: 'Plug-In' types will not be acceptable.
The RCD must be tested once in every period of three months and a record of the tests kept.

49. No exhibition of hypnotism for public entertainment must be given without the express consent in writing of the Council. Application must be made on a prescribed form (available from the Licensing Officer) giving one months notice.

The remainder of the conditions in the licence were removed by unanimous agreement.

The following three conditions are also being kept or amended:

Point one to be replaced so that it reads:

1. Public Entertainment to be limited to three occasions per week.

As well as point one the following conditions will remain:

4. The installation of a noise monitoring device to be set at a level to agreed by the Head of Environmental Services. This device to be used at all times when public entertainment is taking place.
5. That all music making equipment be placed away from the party wall with 196 St Johns Road and to reduce any nuisance to neighbours.

The meeting finished at 2:46 pm