



# LICENSING OF ALCOHOL & GAMBLING SUB-COMMITTEE AGENDA

MONDAY 21 JULY 2014 AT 2.30 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 Mrs Green (Chairman), G Sutton and R Taylor

For further information, please contact Pat Duff, Member Support Officer on Tel: 01442 228558, or Email: [pat.duff@dacorum.gov.uk](mailto:pat.duff@dacorum.gov.uk). Information about the Council can be found on our website: [www.dacorum.gov.uk](http://www.dacorum.gov.uk).

## PART I

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## **1. INTRODUCTIONS**

## **2. MINUTES**

To confirm the minutes of the meetings held on 2 June 2014 and 9 June 2014.

## **3. APOLOGIES FOR ABSENCE**

To receive any apologies for absence

## **4. DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a personal interest in a matter who attends a meeting of the authority at which the matter is considered -

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent

and, if the interest is a disclosable pecuniary interest, or a personal interest which is also prejudicial

(ii) may not participate in any discussion or vote on the matter (and must withdraw to the public seating area) unless they have been granted a dispensation.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Members' Register of Interests, or is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal and prejudicial interests are defined in Part 2 of the Code of Conduct For Members

[If a member is in any doubt as to whether they have an interest which should be declared they should seek the advice of the Monitoring Officer before the start of the meeting].



## AGENDA ITEM: 5

### SUMMARY

<b>Report for:</b>	<b>Licensing of Alcohol and Gambling Sub-Committee</b>
<b>Date of meeting:</b>	<b>21 July 2014</b>
<b>PART:</b>	1
If Part II, reason:	

<b>Title of report:</b>	<b>Application to vary premises licence: Lawn Lane Newsagents, 26 Lawn Lane, Hemel Hempstead Herts HP3 9HL</b>
<b>Contact:</b>	Sally Taylor – Lead Licensing Officer, Legal Governance
<b>Purpose of report:</b>	This report sets out details of an application in respect of a premises licence, which requires consideration and determination by the Sub-Committee in accordance with the adopted scheme of delegation.
<b>Recommendations</b>	That the Sub-Committee consider the contents of the report, and representations made in respect of the application, and determines the application in accordance with the options set out below.
<b>Corporate objectives:</b>	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>• Applications are required to be considered with regard to the promotion of four licensing objectives, comprising the prevention of crime and disorder, public safety, prevention of public nuisance, and protection of children from harm.</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>• Consideration of applications for premises licences and club premises certificates is a statutory function, with a risk of judicial proceedings and reputational damage should the authority fail to properly exercise its functions.</li> </ul>
<b>Implications:</b>	Applications are to be determined under existing policies. No new policy implications arise.

Consultees:	Consultation requirements are prescribed by legislation, and differ depending upon the type of application. Details of representations made by consultees are set out below.
Background papers:	Licensing Act 2003, and associated regulations Dacorum Borough Council's Statement of Licensing Policy Guidance to Licensing Authorities under section 182 of the Licensing Act 2003 (Home Office, June 2014)
Glossary of acronyms and any other abbreviations used in this report:	

## 1. Background

- 1.1. The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.
- 1.2. The Act provides several forms of authorisation for different scenarios. Persons or organisations wishing to carry on activities at premises on a regular basis, or at larger one-off events, will require a premises licence to authorise those activities. Members' clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate.
- 1.3. Under the scheme of delegation adopted by the Council, the Licensing of Alcohol & Gambling Sub-Committee ("the Sub-Committee") is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.

## 2. Applications

- 2.1. The application detailed in part 5 of this report has been made to the licensing authority and requires consideration and determination by the Sub-Committee.
- 2.2. Notice of application was given by the applicant in each case, through service of a copy of the application on specified 'responsible authorities' (this obligation is fulfilled by officers where the application was given electronically). The applicant was also required to give public notice of the application, by way of publication of details in a local newspaper, and by displaying a statutory notice at or near the premises. Failure to comply with these requirements would render an application invalid. Officers have undertaken checks to ensure that these requirements were satisfied.
- 2.3. The applicant and persons making representations have been given notice of the hearing in accordance with statutory requirements.

### **3. General principles to be followed when determining applications**

- 3.1. When considering applications, the licensing authority is required to carry out its functions with a view promoting the licensing objectives, which are:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 3.2. The licensing authority must also have regard to its Statement of Licensing Policy, and to the statutory guidance issued by the Home Office under section 182 of the Act. Attention is drawn to specific, relevant provisions from these documents, with the details of the applications in the Appendices.
- 3.3. The Sub-Committee must ensure that all licensing decisions have a direct relationship to the promotion of one or more of the licensing objectives. Every application should be considered on its merits, and there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.
- 3.4. The Statement of Licensing Policy makes clear to applicants and persons who have made representations the considerations that will be taken into account when determining applications. It is also intended to guide the Sub-Committee when considering licensing applications; however, the Sub-Committee may depart from either the Statement of Licensing Policy or the statutory guidance where the circumstances of the application justify it and if there are good reasons for doing so. Full reasons must be given and Sub-Committees should be aware that such departures could give rise to an appeal or judicial review.
- 3.5. The provisions of chapter 10 of the statutory guidance highlight that only precise, appropriate and proportionate conditions, which promote one or more of the licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations received, and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions are not considered to be appropriate.
- 3.6. It is considered inappropriate for officers involved in the administration of applications to make recommendations. However officers from the Responsible Authorities may request conditions be imposed on a licence and make recommendations with regard to the licensing objectives.
- 3.7. Parties to a hearing, including the applicant and persons who made relevant representations, may have rights of appeal against any decision made by the Sub-Committee, dependent upon the nature of the decision. Appeals may be instituted by way of written notice to a Magistrates Court, within 21 days of being notified of the decision.

#### 4. Options available to the Sub-Committee

- 4.1. While considering an application for the variation of an existing licence, only the proposed variation may be considered. No changes can be made to a licence or the conditions attached unless they are (part of) the subject of the variation application.
- 4.2. When determining an application for the variation of a premises licence (under section 34), the Sub-Committee must, having regard to relevant representations made in respect of that application, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
  - (a) modify the conditions of the licence (by way of alteration, omission or addition);
  - (b) reject the whole or part of the application.

If neither of these steps are to be taken the application shall be granted.

#### 5. Details of application

- 5.1. The following application requires consideration and determination by the Sub-Committee. Further details on each application are contained in the indicated appendix:

Appendix	Premises name / address	Type of application
A	Lawn Lane Newsagents 26 Lawn Lane, Hemel Hempstead, Herts HP3 9HL	Variation of premises licence (section 34 of the Licensing Act 2003)

## APPENDIX A

<b>Applicants name</b>	Mr Govind Maganbhai Patel
<b>Name and address of premises</b>	Lawn Lane Newsagents 26 Lawn Lane, Hemel Hempstead, HP3 9HL
<b>Ward</b>	Apsley and Corner Hall

### 1. **Current Licence**

1.1 The premises is subject to a premises licence, number DAC 007220, which was granted following conversion of the previous licence during transition to the current legislation in 2005. The licence holder has held the licence since that date.

1.2 The premises licence authorises the following activities:

**Sale by retail of alcohol (for consumption off the premises)**

Monday to Saturday 08:00 hours to 23:00 hours

Sunday 10:00 hours to 22:30 hours

Public holidays 10:00 hours to 22:30 hours

1.3 The current premises licence is attached at Annex A.

1.4 The licence was reviewed in February 2010 following an application by Hertfordshire Police. The Licensing of Alcohol and Gambling Sub-Committee agreed the addition of non-mandatory conditions to the licence under the Protection of children from harm licensing objective, and these are set out at Annex 3 of the licence.

### 2. **Application**

2.1 An application has been made for the variation of the current premises licence, under section 34 of the Licensing Act 2003. The application requests an extension to hours for sale by retail of alcohol to 06:00 hours to 01:00 hours seven days a week, inclusive of public holidays.

2.2 The application is attached at Annex B.

### 3. **Details of Representation**

3.1 Representations were accepted in respect of this application between 3 June 2014 and 1 July 2014.

3.2 One relevant representation was received during this period from Hertfordshire Police citing grounds under the crime and disorder licensing objective, namely that to grant the variation could result in an increase in crime and disorder, anti-social behaviour and public nuisance.

3.3 The representation from Hertfordshire Police is attached at Annex C.

3.4 No other relevant representations have been received.

**4. Observations**

- 4.1 A map of the area in which the premises is situated is attached at Annex D.
- 4.2 Relevant extracts from the Council's Statement of Licensing Policy and the statutory guidance are set out at Annex F.





Licensing Act 2003  
**Premises Licence**

Premises Licence Number:

**DAC 007220**

Issue date:

**11 June 2014**

**Part 1 – Premises Details**

**Postal address of premises including Post Town & Post Code, or if none, ordnance survey map reference or description**

Lawn Lane Newsagents  
26 Lawn Lane  
Hemel Hempstead  
Herts  
HP3 9HL

Telephone number      01442 259995

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

Sale by retail of alcohol

**The times the licence authorises the carrying out of licensable activities**

**Sale by retail of alcohol**

For consumption off the premises

Mondays	08:00 hours until 23:00 hours
Tuesdays	08:00 hours until 23:00 hours
Wednesdays	08:00 hours until 23:00 hours
Thursdays	08:00 hours until 23:00 hours
Fridays	08:00 hours until 23:00 hours
Saturdays	08:00 hours until 23:00 hours
Sundays	10:00 hours until 22:30 hours

Public holidays 10:00 hours until 22:30 hours

**The opening hours of the premises**

Mondays 08:00 hours until 23:00 hours  
Tuesdays 08:00 hours until 23:00 hours  
Wednesdays 08:00 hours until 23:00 hours  
Thursdays 08:00 hours until 23:00 hours  
Fridays 08:00 hours until 23:00 hours  
Saturdays 08:00 hours until 23:00 hours  
Sundays 10:00 hours until 22:30 hours

Public holidays 10:00 hours until 22:30 hours

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

Alcohol OFF sales only

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Mr Govind Maganbhai Patel

Telephone number:

Email address:

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

Not applicable

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

Name:

Address:

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:

Issuing authority:

Signed:



On behalf of **Steven Baker**  
Assistant Director (Chief Executive's Unit)

Date issued: 10 June 2014

Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead HP1 1HH  
Tel. 01442 228000 Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk) [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

#### NOTES

This licence is issued subject to the provisions of the Licensing Act 2003 and is subject to compliance with the conditions in the following Annexes.

Possession of this document does not guarantee that the licence remains in force, nor does it imply that the premises are fit for use. Validity and current status of the licence may be confirmed by reference to the Council's Licensing officers.

#### Annex 1: Mandatory Conditions

##### Condition A1.

No supply of alcohol may be made under this licence:

- (a) At a time when there is no designated premises supervisor in respect of the premises licence; or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

##### Condition A2.

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

##### Condition A6.

(1) The premises licence holder or club premises certificate 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.

##### Condition A8.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:-

(a) "permitted price" is the price found by applying the formula  $P = D + (D \times V)$ , where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

## **Annex 2: Conditions consistent with the Operating Schedule**

### **GENERAL STATEMENT OF LICENSING OBJECTIVES**

## **Annex 3: Conditions attached after a hearing by the licensing authority**

### **Conditions added following review of Premises Licence at the Licensing of Alcohol and Gambling Sub-Committee held on 9th February 2010**

The Licence holder shall:

Ensure all electronic tills automatically prompt the seller to check the age of the buyer when alcoholic products are entered for sale into the till.

Adhere to the Challenge 25 protocol, seeking identification from everyone who appears to be under 25, to prove they are 18, prior to the sale of alcohol. Convincing evidence is:

- A passport with a photograph;
- A photo driving licence;
- A proof of age card with the holders photograph complying with the PASS approved identification scheme and bearing the PASS hologram.

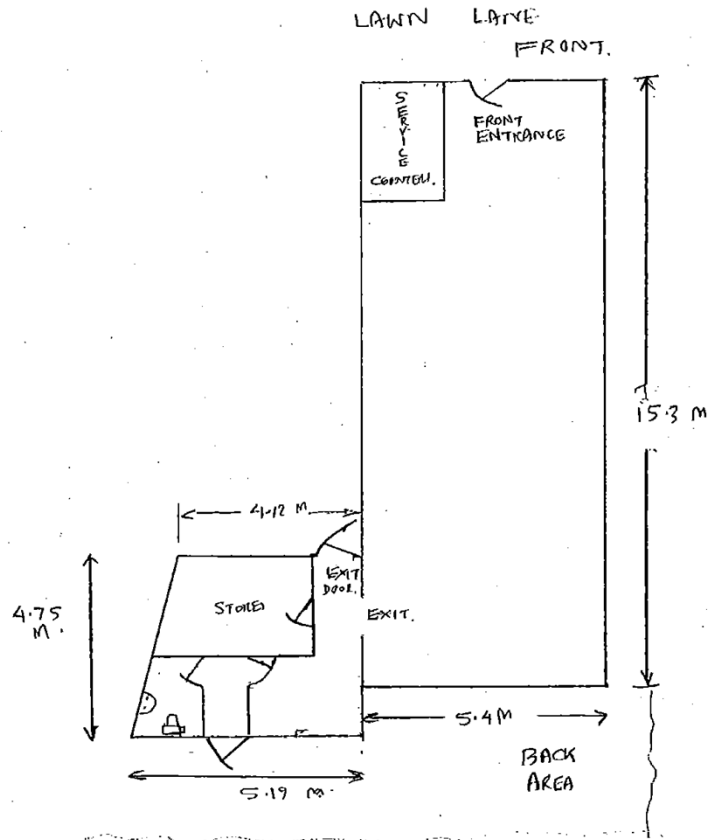
Maintain a refusals book and require staff to complete it when sales are refused to persons under 18 or to those who fail to provide sufficient evidence of their age, ensure that the refusals book is regularly checked, signed and dated by the Designated Premises Supervisor (and it is recommended that this is carried out on at least a weekly basis) and make available such book to the Police, Trading Standards and the Licensing Authority immediately upon request.

In addition to undertaking or arranging any other training, to ensure that all existing staff are trained within three months of the hearing dated 9th February 2010, and, in the case of all new staff, ensure they are trained as part of their induction to operate the Challenge 25 Protocol, maintain the refusals book and enter sales correctly on the tills so that prompts show when appropriate, monitor staff to ensure their training is put into practice, keep a written record of all staff training and make available such record to the Police, Trading Standards and the Licensing Authority immediately upon request.

Ensure that each Designated Premises Supervisor (DPS) attends a formal training course on avoiding underage sales, such as a National Certificate for Designated Premises Supervisors, or the BIIAB Award in Responsible Retailing, within six months of becoming a DPS, and provide evidence of attendance to the Police, Trading Standards and the Licensing Authority immediately upon request.

Ensure the CCTV system is operational at all times when the premises are open for business, keep recordings for a minimum of 28 days and provide access to recordings to the Police, Trading Standards and the Licensing Authority immediately upon request.

Annex 4: Plans



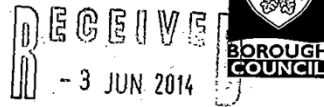
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Tel. 01442 228000 Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk) [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

**ANNEX B**  
**Application to vary premises licence**

Licensing, Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, HP1 1HH

Revised March 2013

**Application to vary a premises licence  
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/We MR. GOVIND MAGANJHA PATEL  
*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number	DAC 007220
-------------------------	------------

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description			
LAWN LANE NEWSAGENTS 26 LAWN LANE			
Post town	HEMEL HEMPSTEAD	Post code	HP3 9HL
Telephone number at premises (if any)	01442 259995		
Non-domestic rateable value of premises	£ 14,750		

**Part 2 – Applicant Details**

Daytime contact telephone number	[REDACTED]		
Email address (optional)	[REDACTED]		
Current postal address if different from premises address	[REDACTED]		
Post town	[REDACTED]	Post code	[REDACTED]

**Part 3 – Variation**

Please tick ✓ as appropriate

Do you want the proposed variation to have effect as soon as possible?  Yes  No

If not, from what date do you want the variation to take effect? Day Month Year 

--	--	--	--	--	--	--	--	--	--

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

C. T. N. + OFF LICENCE  
MAIN ROAD SITUATION  
AMENDING TIMES FOR OPENING HOURS  
+ LICENCING HOURS.

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

**Part 4 – Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

- Provision of regulated entertainment** Please tick ✓ all that apply
- a) plays (if ticking yes, fill in box A)
  - b) films (if ticking yes, fill in box B)
  - c) indoor sporting events (if ticking yes, fill in box C)
  - d) boxing or wrestling entertainment (if ticking yes, fill in box D)
  - e) live music (if ticking yes, fill in box E)
  - f) recorded music (if ticking yes, fill in box F)
  - g) performances of dance (if ticking yes, fill in box G)
  - h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)
- Provision of late night refreshment** (if ticking yes, fill in box I)
- Sale by retail of alcohol** (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

**A**

<b>Plays</b> Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					



**C**

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b>Please give further details</b> (please read guidance note 4)
Day	Start	Finish	
Mon			<b>State any seasonal variations for indoor sporting events</b> (please read guidance note 5)
Tue			
Wed			
Thur			<b>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</b> (please read guidance note 6)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed					
Thur			<b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 5)		
Fri					
Sat					
Sun					
			<b>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue					
Wed			State any seasonal variations for the performance of live music (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of dance take place indoors or outdoors or both – please tick ✓</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon					
Tue			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)		
Wed					
Thur			<b>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Fri					
Sat					
Sun					

**H**

<b>Anything of a similar description to that falling within e, f or g</b> Standard days and timings (please read guidance note 7)			<b>Please give a description of the type of entertainment you will be providing</b>		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick ✓</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
Tue			<b>Please give further details here</b> (please read guidance note 4)		
Wed			<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

**Where are the sections for 'Provision of facilities for making music and dancing'?**

Changes under the Live Music Act mean that from the 1<sup>st</sup> October 2012, you no longer need a licence to provide facilities for making music, or facilities for dancing, or facilities for entertainment similar to music and dancing.

You will still need a licence if you are providing the entertainment, rather than simply providing facilities for use by customers.

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption: (Please tick box ✓) (please read guidance note 8)	On the premises	<input type="checkbox"/>
Day	Start	Finish		Off the premises	<input checked="" type="checkbox"/>
Mon	06.00	01.00	State any seasonal variations for the supply of alcohol (please read guidance note 5)	Both	<input type="checkbox"/>
Tue	06.00	01.00			
Wed	06.00	01.00			
Thur.	06.00	01.00		Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)	
Fri	06.00	01.00			
Sat	06.00	01.00			
Sun	06.00	01.00			

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9)</p> <p style="text-align: center;">N/A.</p>
---

L

<b>Hours premises are open to the public Standard days and timings (please read guidance note 7)</b>			<b>State any seasonal variations (please read guidance note 5)</b>
Day	Start	Finish	<p>N/A</p> <p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)</p> <p>N/A</p>
Mon	06.00	01.00	
Tue	06.00	01.00	
Wed	06.00	01.00	
Thur	06.00	01.00	
Fri	06.00	01.00	
Sat	06.00	01.00	
Sun	06.00	01.00	

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

Please tick ✓ as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

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

**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 10)**

CCTV  
NO ID NO-SALE  
WELL LIT FORECOURT.  
LOG INCIDENTS  
EXTRA STAFF

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

CCTV,  
REPORT UNUSUAL ACTIVITIES TO POLICE  
PHOTOGRAPHIC EVIDENCE

**c) Public safety**

EXTRA STAFF AT NIGHT.  
WELL LIT FORECOURT.

**d) The prevention of public nuisance**

DISCOURAGE LARGE GATHERING.  
INVOLVE COMMUNITY OFFICER.

**e) The protection of children from harm**

NO SALE TO UNDER 18  
ASK FOR ID  
LOG REPEAT OFFENCES.

**Checklist:**

Please tick ✓ to indicate agreement

- I have made or enclosed payment of the fee; or I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

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

**Part 5 – Signatures** (please read guidance note 11)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	G. M. Patel
Date	2 JUNE 2014
Capacity	PREMISES LICENCE HOLDER.

Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application. (please read guidance note 14)

<p>[Redacted Name and Address]</p>	
Telephone number (if any)	[Redacted Telephone Number]
<p>If you would prefer us to correspond with you by email your email address (optional)</p>	
<p>[Redacted Email Address]</p>	



**ANNEX C**  
**Representation from Hertfordshire Constabulary**



HERTFORDSHIRE  
CONSTABULARY

4102 NOV 11

DACORUM  
LICENSING AUTHORITY  
Licensing Act 2003



**REPRESENTATION FORM FROM RESPONSIBLE AUTHORITIES.**

Responsible Authority: Police - On behalf of The Chief Constable of Hertfordshire.

<b>Your Name</b>	M.SAUNDERS
<b>Job Title</b>	Police Sergeant 795
<b>Postal and email address</b>	Community Safety Unit, County Police Station, Coombe Street, Hemel Hempstead, Herts. HP1 1HL. deborah.latto@herts.police.pnn.uk
<b>Contact telephone number</b>	01442 271601

<b>Name of the premises you are making a representation about</b>	Lawn Lane Newsagent
<b>Address of the premises you are making a representation about</b>	26, Lawn Lane, Hemel Hempstead

<i>Which of the four licensing Objectives does your representation relate to?</i>	<i>Yes Or No</i>	<i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i>
To prevent crime and disorder	X	See Attached Information
Public safety	X	As above
To prevent public nuisance	X	As above
To protect children from harm		

<b>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.</b>	
---	--

Signed:  P5795

Date: 11/6/14

RESTRICTED (when complete)

MG11

Witness Statement

Page 1 of 1

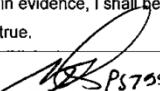
Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: [ ] [ ] [ ] [ ]

Statement of: **Mike SAUNDERS**

Age if under 18 (if over insert "over 18"): Occupation: **Police Sergeant**

This statement (consisting of .....2..... Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:  PS705 Date: **10/06/2014**

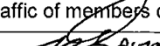
I am a Police Sergeant with Hertfordshire Constabulary and the current Supervisor of the Community Safety Teams at Dacorum and St Albans

This statement relates to an application for Variation of Premises Licence made under the Licensing Act 2003 for the premises Lawn Lane Newsagent, 26 Lawn Lane, Hemel Hempstead for which the police are making a representation.

The premises are currently licensed to remain open to the public and for the supply of alcohol between the hours 8.00am to 11.00pm Monday to Sunday. The applicant proposes to extend the times for the supply of alcohol and opening to 1:00am Monday- Sunday.

Within Hemel Hempstead town centre and surrounding area there are a number of Off-licence establishments, all are licenced to sell alcohol until 11:00pm. Any premises open past this will be vulnerable to becoming a hotspot to attend for alcohol.

Hemel Hempstead has a high concentration of public houses and clubs, though compared to many towns and cities, has relatively few other establishments (off-licences, shops, takeaway food stores) open beyond the drinking and entertainment venues in the town centre. This helps to ensure a quick and safe dispersal from the night time economy. It is the experience of the Police that any establishment – not only ones serving alcohol – open beyond the night time economy will become a hotspot for crime and disorder and disrupt dispersal from the town centre. A swift dispersal from the town centre also helps to reduce any prolonged noise nuisance. Lawn Lane Newsagent is situated on a busy road that links the town centre to surrounding residential areas and there are many businesses and residential properties in the immediate vicinity. As such the area sees a high footfall and vehicle traffic of members of the public making their way to and from the night time economy.

Signature:  PS705 Signature Witnessed by: **N/A**

04/2013

RESTRICTED (when complete)

Witness Statement

Continuation of Statement of **Mike SAUNDERS**

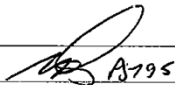
An off licence open at this late hour not only risks congregation and disorder at and around the premises, but also risks arming intoxicated members of the public with bottles which could then be used as weapons. Broken glass and discarded bottles are also dangerous, and we would expect to see an increase of this and other litter in the area as a result of the store being open at this time.

The vast majority of customers wishing to purchase alcohol from an off licence on their way out of the town centre as late as 1:00am will have already consumed alcohol that evening. Therefore there is an inherent increased risk of selling alcohol to intoxicated persons at this time, which is a criminal offence. Intoxicated persons are also far more likely to be noisy, uncooperative and argumentative, and therefore refusal of service or entry to someone who is intoxicated can often lead to confrontation and disorder. It is noted that the applicant has not recognised this as there is no mention within the body of the application.

In short, the premises are a newsagent and convenience store with a licence to sell alcohol to 11:00pm. It is within 50 yards of the Queens Head public house and a number of Late Night food venues, it is also opposite a residential area.

In summary should this variation be granted it is the Police's belief that this will result in an increase of crime and disorder, drunken behaviour and public nuisance. It is not compatible to the safe dispersal of the night time economy and therefore I would urge the committee to reject this application in its entirety.

Signature:



Signature Witnessed by: N/A

04/2013

Witness Statement

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: [ ] [ ] [ ] [ ]

Statement of: **Michael John WARD**

Age if under 18 (if over insert "over 18"): \_\_\_\_\_ Occupation: **Licensing Investigator**

This statement (consisting of 4 ..... Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: \_\_\_\_\_ Date: **10/06/2014**

I am employed by Hertfordshire Constabulary as a Licensing Investigator with The Community Safety Team at Hemel Hempstead.

This statement relates to an application for Variation of Premises Licence made under the Licensing Act 2003 for the premises Lawn Lane Newsagents, 26 Lawn Lane, Hemel Hempstead..

The premises are currently licensed to remain open to the public and for the supply of alcohol between the hours 08.00am to 11.00pm Monday to Sunday, the applicant proposes to extend the times for the supply of alcohol and opening to 06:00am -- 01:00am Monday- Sunday.

There are many similar "off licence" style establishments in the Marlowes and surrounding areas, including all of the major supermarket chains and all have similar hours as Lawn Lane Newsagents does currently. No off licences are open and serving alcohol beyond 11.00pm and indeed some are required to close earlier than this.

I became aware that Mr Govind Maganbhai Patel was interested in extending his licence in June 2014. I attended the premises on Wednesday 4<sup>th</sup> June where I spoke to a Mr Sunes Kandasamy. He informed me that he ran the premises on behalf of Mr Patel but he was not a Personal Licence Holder but assumed that Mr Patel held the Premises Licence and was also a Personal Licence Holder and was also The Designated Premises Supervisor.

Mr Kandasamy explained to me that he wanted to extend the hours of the off-licence as he thinks there is more potential for business. He also stated that the sale of alcohol was the main income for

Signature: \_\_\_\_\_ Signature Witnessed by: **N/A**

Witness Statement

Continuation of Statement of Michael John WARD

the business but was not purchased in sufficient quantities during the day to support the weekly outgoings such as rates etc. I explained that police would have some serious concerns over this application due to the increased risk of crime and disorder occurring at or around the premises should the premises be open until the hours proposed.

I asked what steps would be taken to promote the licensing objectives, having noted that a good quality digital CCTV system was already in operation. Mr Kandasamy stated that during the evening there would be a minimum of three staff members within the premises and that since 2013 he had not contacted the police regarding any incidents related to crime and disorder

I explained to Mr Kandasamy that extending his opening hours to serve alcohol will inevitably attract further people and the crime and disorder in the area will be greatly heightened. Coupled with the increase in traffic and parking issues together with incidents of noise and public nuisance.

The premises are very close to the Queens Head public house and I highlighted to Mr Kandasamy that there were serious concerns that if the hours were extended people who had already consumed a quantity of alcohol would possibly be looking to purchase more, thus. The fact that the premises would be the only off sales establishment open at the time it would encourage the supply of alcohol to intoxicated persons.

Mr Kandasamy stated that they would get a lot of customers who would drive to pick up alcohol from the off licence. I explained that may bring further problems of drink driving due to the time of night that this would be. I also pointed out that the premises were in a residential area and there was a potential for people to congregate in the local residential areas and in the Marlowes which is very close by.

It was obvious from this meeting that Mr Kandasamy was keen to raise extra revenue from the sale of alcohol to deal with outgoing expenses, in particular the lease and rates and it was apparent that this was the sole reason for the application being submitted. I advised that on behalf of the Chief Constable representations would be made against such an application.

Signature:

Signature Witnessed by: N/A

04/2013

Witness Statement

Continuation of Statement of Michael John WARD

On Friday 6<sup>th</sup> June I again attended the premises where I spoke with Mr Kandasamy I also spoke with the applicant Mr Govind Maganbhai Patel by telephone. I highlighted my concerns regarding his application and explained to him that Hertfordshire Constabulary would be making representations against his application to vary the premises licence. I supported this conversation with a letter (Copy attached) sent to both Mr Patel and Mr Kandasamy on 10<sup>th</sup> June 2014.

Hemel Hempstead has a high concentration of public houses and clubs, in and around the town centre though compared to many towns and cities, has relatively few other establishments, (off-licences, shops, takeaway food stores) open beyond the drinking and entertainment venues. This helps to ensure a quick and safe dispersal from the night time economy. It is the experience of the Police that any establishment – not only ones serving alcohol – open beyond the night time economy will become a hotspot for crime and disorder and disrupt dispersal from the town centre. A swift dispersal from the town centre also helps to reduce any prolonged noise nuisance. The premises are situated on a busy road that links the town centre to surrounding residential areas, and there are many businesses and residential properties in the immediate vicinity. As such the area sees a high footfall of members of the public making their way to and from the night time economy.

An off licence open at this late hour not only risks congregation and disorder at and around the premises, but also risks arming intoxicated members of the public with bottles which could then be used as weapons. Broken glass and discarded bottles are also dangerous, and we would expect to see an increase of this and other litter in the area as a result of the store being open at this time.

It is also likely that being open and selling alcohol at a time when all other stores are closed will lead the store to be targeted for sales by the street drinkers. Part of my role as a Licensing Officer is to assist the district's licensed premises in promoting the licensing objectives, and as such I have had a great deal of involvement with the local off licences and helped them to identify potential customers who engage in anti-social street drinking and so forth.

I am certain that a high proportion of customers wishing to purchase alcohol from an off licence in the early hours of the morning will have already consumed alcohol that evening. Therefore there is an inherent increased risk of selling alcohol to intoxicated persons at this time, which is a criminal offence.

Signature:

Signature Witnessed by: N/A

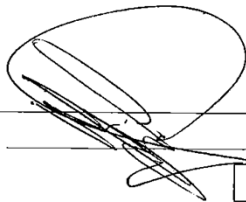
04/2013

**Witness Statement**

Continuation of Statement of **Michael John WARD**

In summary, the proposed variation is inappropriate for a premises in this location – the proposal is incompatible with the safe dispersal from the night time economy, increasing the risk of disorder and anti-social drinking, and therefore the application does not promote the licensing objectives.

I am therefore making representations against the application on behalf of Hertfordshire Constabulary.



Signature:

Signature Witnessed by: N/A

04/2013

RESTRICTED (when complete)

**ANNEX D**  
**Map of area in which premises is situated**



**Dacorum Borough Council**

**Licensing**

Civic Centre, Marlowes Hemel Hempstead, Herts, HP1 1HH



(C) Crown copyright. All rights reserved.  
Dacorum Borough Council 100018935: 2014

Scale: 1:500  
Date: 30/06/2014  
OS Tile: TL0506SE



**Local policy considerations and national statutory guidance**

**It is considered that the following extracts from the Council's Statement of Licensing Policy and National Guidance have a bearing on the application:**

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.

1.7 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.

1.12 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.

3.2 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.

## **10. 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.

### **13. Crime Prevention**

13.1 When considering applications and reviews the Licensing Authority will give consideration to:-

- Whether the premises make or will make a significant contribution to levels of crime and disorder;
- Whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the grant of the application has been carried out by the applicant.

### **19. Administration, Exercise and Delegation of Functions**

1.17 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.

## **NATIONAL GUIDANCE**

### **Licence conditions – general principles**

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

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

### **Each application on its own merits**

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

### **Other relevant legislation**

1.19 Whilst licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005

### **Crime and disorder**

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

### **Determining Applications**

#### **Where representations are made**

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

9.33 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.34 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- Section 182 Guidance issued by the Home Office
- its own statement of licensing policy.

9.35 The licensing authority should give its decision within 5 working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

### **Imposed Conditions**

10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

### **Hours of trading**

10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

## **6. LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE 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 or other person who has made relevant representations (in that order, except in the case of a Review where the order will be: the person or Responsible Authority bringing the Review, the Licence-Holder, and any other Responsible Authority or other person having made relevant representations). 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 person or Responsible Authority, who have made relevant representations, and the Applicant (in that order, except in the case of a Review where the order will be: any person or Responsible Authority which has not made the application for Review, the Licence-Holder, and the person or Responsible Authority bringing the 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:

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**DACORUM BOROUGH COUNCIL**

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

**2 JUNE 2014**

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Present –

**MEMBERS:**

Councillors Mrs Green (Chairman), G Chapman and G Sutton.

**OFFICERS:**

T Cawthorne	Environmental Health Officer
P Duff	Member Support Officer
R Hill	Team Leader (Licensing)
S Scrowther	Solicitor
S Taylor	Lead Licensing Officer

**Other Persons Present:**

Mr P J Grainger-Carr	Applicant
Mrs A Grainger-Carr	Applicant
Mr J Grainger-Carr	Applicant
Cllr J Marshall	Ward councillor
Ms M Thorley	Representing residents of Heath Park House
Mr Firth	Resident of Heath Park House
Ms P Warren	Interested Party
Mrs S Illsley	Premises Licence Holder, Life and Soul Theatre Academy, Boxmoor Hall, Hemel Hempstead
Mr J Smith	Solicitor representing the Licence Holder, Poppleston Allen Solicitors
Mr J Lardner	Licence Holder's Husband
Mr D Rees	Smile Events DJ Hire
Mr B Vasey	Interested Party

The meeting began at 10.00 am

**1. INTRODUCTIONS**

The Chairman introduced herself, the Councillors on the Sub-Committee and the officers present. The Chairman then asked the other persons present to introduce themselves. The Chairman informed all parties that speeches would be time limited and asked that only items referring to the licence should be referred to.

The Chairman advised that the procedure was in the agenda. Those speaking would be asked to identify themselves and any party may be represented by a representative.

Mr P Grainger-Carr expressed concern about the time limit on representations and said that under European legislation there must be a proper and fair hearing.

The Chairman said that the members of the Sub-Committee had read through the papers and she believed that 20 minutes per party was adequate.

Mr Scrowther said the committee was entitled to set a time limit which must be the same for both parties of the proceedings.

Mr P Grainger-Carr said since the case papers had been delivered there had been other incidents which needed to be reported and expressed concern that the three applicants were not being given 20 minutes each.

Mr Hill said the regulations referred to the review applicants as a single party, not as individual speakers.

The Chairman said members considered 20 minutes for each party to speak was long enough. At the end of the meeting the Chairman would ask both parties if all relevant matters had been raised.

Speakers for the review applicant and supporting representations:

Mr P Grainger-Carr / Mr J Grainger-Carr  
Ms M Thorley  
Mr M Firth  
Councillor J Marshall  
Mr T Cawthorne

Speakers for the Licence Holder and supporting representations:

Mr J Smith, Solicitor  
Mr J Lardner  
Mr D Rees  
Mr B Vasey

## **2. MINUTES**

The minutes of the meeting held on 29 April 2014 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.

The Chairman outlined the procedure for a review, as set out in the agenda. The speakers would speak for the agreed time of 20 minutes and late documentation could only be introduced by the agreement of all parties. The Chairman said the matters of visits to the premises, the reading of papers and formal requirements would be addressed and the discussion would be led by the Panel. The Chairman emphasised that all speakers were not permitted to introduce new information and there should be



no repetition. The order of speakers would be: 1) the review applicant and supporters; 2) the Licence Holder and supporters; and there would be cross-examination only if this was necessary in the view of Members.

The Chairman asked members to declare any interests.

Councillor G Sutton declared that he has lived in Hemel Hempstead for 60+ years. He has never visited the premises and they were not in his ward.

Councillor G Chapman declared that she lives in Bovingdon. She has seen the premises but has never visited them and they are not in her ward.

The Chairman informed the Sub-Committee that she is the Ward Councillor for Berkhamsted West. The Chairman said that she has never visited the premises.

## **5. REVIEW OF PREMISES LICENCE HEARING**

The application was for:  
The Life and Soul Theatre Academy  
Boxmoor Hall  
St John's Road  
Hemel Hempstead  
Herts HP1 1JR

The Chairman asked the members of the Sub-Committee if they had read the agenda and all additional documents. Councillors G Chapman and G Sutton confirmed they had read the documents at hand.

The Chairman asked whether all legal obligations had been complied with.

Mr Scrowther confirmed that they had.

The Chairman confirmed that all parties would have 20 minutes to make a statement.

The Chairman asked Mr P Grainger-Carr for his statement.

### **Mr P Grainger-Carr made the following statement.**

There has been a shift in this business from when the premises licence was granted in September 2008 when the principle business was the dance theatre and health and beauty. The emphasis has now moved to parties, weddings and other functions accompanied by late music and disturbance. The premises are in the middle of a residential area, immediately adjacent to flats and homes. The damage cost is of great significance.

Reference has been made in the representations to evidence. It is not the Life and Soul Academy now, the advert in the newspaper, on the website and on the liveried smart car was all about the events side of this business. The studio timetable shows very limited activities of Life and Soul. In April 2013, there was a full front page advert for weddings, whereas the advert celebrating the 10 year anniversary of the Life and Soul Academy was on an inside page. This shows what is going on and Boxmoor Hall has the nature of a public house.

The frontage of Boxmoor Hall should also be taken into account. There is a lot of noise and activity on the frontage. Regarding public safety, the reason the planning

application has been withdrawn is because of objections from HCC on the grounds of public safety. When people are on the frontage, the public have to walk in the road to pass the premises.

In 2008 the Environmental Health Officer said, 'noise should be inaudible at the façade of the building.' 215 metres away from Boxmoor Hall I heard a great deal of noise. Windows and doors were open with total disregard of all conditions that were agreed regarding the noise emanating from the building.

It is not theatre on the frontage that causes problems, it is the party activities that create the noise and disturbance. Smoking is also an issue. We have to shut our doors and windows to keep out the problems from the frontage. The Licensee cannot keep to the terms of her licence.

As an example of the disturbance, on Saturday night there were six girls, one drinking from a bottle and five from glasses. There had been a door supervisor standing in the road keeping people within the frontage but when he is not there, people are out in the road. This was two days before the hearing. They have nothing to limit the noise or to limit the number of attendees. In 2008 numbers were limited to 120, including staff. The licensee continues to advertise functions for up to 200 guests.

A lot of representations received in support of the licence are misrepresentations, some of which are libellous. A recent incident resulted in my son and me being assaulted.

Mr J Grainger-Carr said he had given notice of this by email on 9 May and if it had not been included in the papers. That was a problem.

Mr Hill said the letter was among additional papers circulated last week.

Mr Smith highlighted Regulation 19 of the Licensing Act 2003 (Hearings) Regulations, and questioned the relevancy of the incident to an application or representation.

Mr Scrowther said it was proper for it to be raised, but whether it was taken into consideration or not was a separate matter.

**Mr P Grainger-Carr continued with his statement.**

Residents have been put to a great deal of inconvenience in having to record the disturbances. For example at 1.00 am I am having to write notes about events that are still going on. It cannot be right that the people should be put to this inconvenience on an on-going basis.

Many representations reference the dance classes and that is fine, we want that to continue. There are at least 18 dance premises in Hemel Hempstead and they do not all have licences to continue their business. It is not necessary to hold this licence for that.

Mr Lardner has made a lot of misrepresentations and examples were given. This is a heartfelt plea that something radical must be done. We have to see the Enforcement Officers take effective action so that the Licensee comes to recognise that a licence is a privilege, a permission given subject to conditions all of which must be observed at all times and not disregarded (front and back of premises, opening of doors and windows and noise). We would like to see the frontage removed from the licence. I doubt if the committee in 2008 would have been considering granting a licence in respect of that. There should be a limitation on offering drinks and glasses from the

front door of the premises. I would like to reset the balance between the performing arts and other activities and limit the entertainment to 11.00 pm. All the near residents work and would like noise limiting set and monitored by Environmental Health. There should be pre-paid admission to control the numbers to fit with the Fire Authority's recommendation. The main thing is that recommended conditions be complied with.

The Chairman said the company who compiled the fire report was accepted by the Council as providing professional advice and their statement that up to 200 people were able to go into the building is accepted by the Council and that is part and parcel of the regulations.

Mr Hill said that, under the Regulatory Reform (Fire Safety) Order, the onus was on the Licence Holder to assess a safe capacity, taking appropriate advice either from the Fire authority or a suitable advisor.

The Chairman asked members if they wanted to ask Mr P Grainger-Carr any questions. There were no questions.

The Chairman asked Mr J Grainger-Carr to make his statement in the allotted time remaining.

**Mr J Grainger-Carr made the following statement.**

I want to be able to sleep at night but there is music, slamming of car doors and people shouting. This is as a result of alcohol. I want to be able to enjoy the back garden and the TV, to have the windows open without smoke and noise entering the house. I want to feel the Licensee of Boxmoor Hall is showing proper consideration and respect for its neighbours. Mr Lardner has assaulted my father and me.

The Chairman said the committee was dealing with the licensing application only.

**Mr J Grainger-Carr continued with his statement.**

I enjoy dance and health and wellbeing but am against loud late night alcohol fuelled activity.

The Chairman asked Councillor Marshall to make her statement.

**Councillor Marshall made the following statement.**

I am speaking as the ward councillor for Boxmoor. I have been contacted by residents from both sides who wish to see the licence terms amended. There is an instance of tension between neighbours and there is a repeated noise and disturbance problem to the occupants of 4 and 6 St John's Road and the occupants of Heath Park House. The agenda illustrates instances and contains noise diaries.

There have been complaints to Environmental Health and the noise and lateness of the noise is a regular problem. Residents have to watch TV using subtitles. Evidence indicates the terms of the licence conditions, especially regarding closure of windows, need to be enforced. There should be implementation of noise limiters fixed by Environmental Health for live and recorded music. It is not enough to rely on Boxmoor Hall and it is suggested that the committee reduces the permitted hours.

This is a residential area and the emphasis of the business has changed to an events establishment. The licensee is now running more of a hospitality venue rather than a dance venue.

I want the dance and wellbeing activities to thrive and urge the committee to amend the terms of the licence. Residents lives are being affected by the change of primary use.

The Chairman asked Mrs Thorley to make her statement.

**Mrs Thorley made the following statement.**

I am here as a representative of residents of Heath Park House who want the licence reviewed. I want to emphasise that our actions are not to close the dance academy. We support the review as the owner of Boxmoor Hall has made no attempt to address the problem of noise at evening events. We are concerned about the development of the owner's business and feel the regulatory authorities have to be aware of the owner's current use of the Boxmoor Hall and the impact on the neighbours. We are being deprived of the peaceful enjoyment of our possessions and property.

The committee has before them the submission of Heath Park House, additional photographs were taken over the weekend. In view of the small space outside the front, we request the licence restricts the consumption of beverages to the inside of Boxmoor Hall at all times. The outside area to be used only for smoking without heating or music. In support of this the owner proposes to move the front from the west to the east side. This would simply move the current problems. We want to address DBC policy. Granting a licence has had catastrophic effect on residents and with the noise problem it is difficult to attract quality tenants. The tenants support the recommendations 1 – 6 and 8 – 11 made by Councillor J Marshall in her representation as ward councillor dated 7 May. The tenants also supported the advice from the Environmental Health Officer made on 2 May. The licensee has made no attempt to address the problem of noise and tenants trust the outcome will enable Boxmoor Hall to continue and to address the noise problems.

The Chairman asked Mr Firth to make his statement.

**Mr Firth made the following statement.**

We had problems with Hemel Hempstead Cricket Club. We approached them and had a meeting to discuss problems relating to alcohol and noise. They implemented a policy of no under 21's parties etc. There are other ways to deal with matters in the right way. Whenever we have tried to make representations to Boxmoor Hall we have been met with animosity. I want to see the prohibition of a late night alcohol licence and no outside drinking with events finishing at midnight. I have no problem with the dance academy. It is midnight to 2.00 am that is the problem.

The Chairman asked Mr Cawthorne to make his statement.

**Mr T Cawthorne made the following statement.**

I became aware of the issues on 8 April 2014 when I was notified of the review of the licence because of potential noise nuisance. I instigated an inspection to investigate for statutory nuisance and this is ongoing. The letter was sent out and information was received back before the deadline for the submission. There had been several complaints regarding the premises in 2009, 2010, 2011 and 2014. The current case is under investigation and no evidence can be given currently as it may be used in court action. The previous histories are being reviewed and the action being taken is that there will be further investigations and that is an open ended and could possibly take two months.

An email dated 2 May requested three conditions to be applied to the variation of the licence.

1. All doors and windows should be closed except for access and egress. Ventilation to be supplied.
2. Acoustic limiter to be provided and maintained in all event rooms. There is already a noise compressor but no noise limited that would keep noise at set levels.
3. A record of the 20 occasions where the opening hours are in excess of the normally permitted activities and the activity undertaken to be provided to the Licencing Authority on request. An email has been received from the applicant advising that would be acceptable.

The Chairman asked if everybody who had indicated they wanted to speak had spoken. This was confirmed.

Mr Smith asked if the Environmental Health Officer felt it was proper for the licensee to answer the allegations he was making from 2009 – 2014 when he has not provided any details.

Simon Scrowther referred to Regulation 3 of the Hearings Regulations which stated that cross examination was not to be permitted unless the committee feels the question needs to be answered.

The Chairman said the committee would take note of what had been said.

Mr Smith referred to the email from Mrs Thorley dated 11 April to the residents of Heath Park House asking them to sign that they were in agreement to a letter that she had not yet written. Mr Smith asked if residents had seen the letter of objection before they were being asked to support.

Ms Thorley confirmed they had.

Mr Smith said he had never seen so many complaints with legal action being taken between two neighbours. There were issues concerning the Police being called, regarding deliveries being made to the Grainger-Carr properties, smokers and parking. Mr Grainger-Carr was attempting to enforce a covenant dating back to 1889 to stop alcohol being served on the premises. The owners of the apartments had kept logs of incidents. The only logs in the agenda were two pages from March. Councillor Marshall has put forward proposals. The owners of the apartments are backing Mr P Grainger-Carr.

Mr Smith said he had given in a late response as he had been told on the previous Friday the timing was likely to be guillotined to 10-20 minutes.

Mr Hill said the documents had been circulated last week by email. Everybody except Mr P Grainger-Carr and Mr J Grainger-Carr said they had received them.

Mr Scrowther said the committee would accept the document and people could comment in the closing submissions.

Mr Hill said a copy of the submission had been sent to Mrs Thorley as the representative of Heath Park House. In respect of the submission of additional documentation, Mr Hill referred to Regulation 18 of the Hearings Regulations which said submission of documents would require the consent of all parties.

Mr P Grainger-Carr said he had prepared a summary of his documents and had had to shorten it, and that Mr Smith had used this to escape the guillotine.

The Chairman asked if Mr P Grainger-Carr was happy to submit his document and if Mr Smith was happy to receive it. This was confirmed.

The Chairman asked that copies of the late submission be circulated for consideration over the lunch break.

**Mr Smith made the following statement.**

Pages 4 – 9 of the report give background of Boxmoor Hall. Page 10 of the report gives the conditions. The hall runs a total of 27 classes plus 4 classes which are run by other teachers but these could be temporary. In 2008 we were running 31 classes which means there are four less classes being run now. Table 19 breaks down the number of hours provided for performing arts and health and wellbeing and fitness against the licensing activities.

There were 255 hours of events, including christenings, wakes and childrens' birthday parties as against 1,621 hours of dance teaching and health and wellbeing activities. There are more events and this has been addressed. We now have a premises licence. The lounge itself is the area to the front and serves coffees from 10.00 am until 2.00 pm every day except Sundays. Alcohol is not served a great deal during the day and the predominant element is a performing arts and wellbeing dance studio.

We have 20 occasions when we can run until 2.00 am. Over 5 years that could have been 100 times. We have run to 2.00 am at the bar once at the Christmas event in 2012. Another event went to 1.30 am in 2013. In 2008 we made it clear that we would hold some events. We now have more availability so we do more. There was a complaint from the Environmental Health Officer in May 2014. There were complaints from residents who say the event went on until 1.45 am. This was a 60<sup>th</sup> birthday party that ran from 20.00 to 01.00. The music finished at midnight. There was a complaint at 01.43 from people who live in the apartments. That cannot be. We need a premises licence to hold events. It is a question of what is the predominant use. We have given hard evidence of how the hall is used. The large adverts were in use at the start of the academic term. Outside of term time there are smaller adverts because they are not recruiting new members.

The Serenity Suite has never been licensed. Mr P Grainger-Carr talks about how many hours we run dance events and refers to 10.5 core hours. It is more like 18 core hours. We do have an A board outside advertising. We advertise events such as birthday parties, weddings and anniversaries. Most people who book the hall have a connection with the event.

Regarding public nuisance and crime and disorder, we have had two visits from the police. On both occasions police decided there was no reason to come into the hall.

Regarding breaches of premises licence, most of these were raised on a Wednesday or Thursday. We do not hold events on these days – these complaints are from dance classes. The remainder of the log on Wednesdays or Thursdays says windows are open but there is no music. There are occasions when windows are opened by customers. We have now put locks on the windows so they cannot be opened in the main hall and downstairs. We hold events on Fridays and Saturdays. The window that has been left open at times is at the side. That is where the kitchen is. The Environmental Health Officer has asked for a noise limiter to be imposed. We are

being asked to install all these things on the evidence of Mr P Grainger-Carr. You have two log sheets from the residents of the Heath Park apartments and there are only two logs from them in March. We have four years of complaints from Mr Grainger-Carr and not one conversation about the noise. Why didn't Heath Park residents approach us? We have suggested putting in dense foliage to prevent smoke going up. There have been two events where tickets have been sold in advance and on the door.

I ask members to bear in mind this review was brought by an individual and his family who have a long history of acrimony with the premises licence holder. She has put a noise suppressor in. Door staff are used every night on all occasions. We have not milked the hours. We could have used the late licence on 20 occasions each year. We have our own DJ and he has to be used at all music events. We have put a noise suppressor in. We have locked the windows in the ballroom and in the Oxygen Suite.

Door staff do monitor the windows to ensure they are kept closed and locked. This has been done for four years. Why is it only now that the Environmental Health Officer is involved and taking proceedings? In a couple of months there will be a firm conclusion because noise monitoring equipment will go in. At the moment it is being done on speculation from Mr Grainger-Carr and owners of Heath Park apartments.

Regarding customers outside, these are not rowdy parties. There is a guest list. We want to change the outside area to enhance it. On two occasions police did not want to come in.

Councillor Sutton asked about a reference to alcohol sales being only a low proportion of total sales, and queried what the precise proportions were.

Mr Smith said alcohol sales in the daytime are low, but that the premises did not have a sophisticated till system to break figures down by product type.

The Chairman asked Mr Lardner to make his statement.

**Mr Lardner made the following statement.**

I joined Boxmoor Hall in 2009 and was aware of the issues with the neighbours. I run a security company. Compared with other venues I have worked in, Boxmoor Hall is like a rose garden. People come to drink responsibly at the hall. Mrs Ilsley has been responsible and does everything she can. We have a legal obligation and have always tried to fulfil it. When a complaint is received we always act upon it. It was a surprise to have a licensing review. In 2009 parking seemed to be an issue. I spoke to the Parking Policy Lead Officer and asked for a management system. A lot of tenants and rail users would be parking there. This demonstrated we want to resolve problems. Permit parking was introduced.

We had a delivery and the Grainger-Carrs took it in. We asked the suppliers not to do it again. Mr P Grainger-Carr referred to an incident outside Boxmoor Hall. A parent complained there was someone photographing her when she brought her child in. Over time we are having a lot of petty calls but we are fulfilling our obligations.

Regarding fire safety, we have had audits done and the safety capacity of the building is fine. We are an accredited, responsible security company and we are teaching our bar staff not to serve under 18s. We then had a County Court Action taken against us by Mr Grainger-Carr regarding a car. We have done everything we can. We have had no requests from neighbours asking us to do anything. We are surprised we are here today.

The Chairman asked Mr Rees to make his statement.

**Mr Rees made the following statement.**

I have been the DJ for the last 3 years. I have done several events at the Cricket Club. I support Mrs Ilsley. As a small business owner she does a good job with limited resources to run the venue and make ends meet. When we first got involved there was a definite indication from Mrs Ilsley that she wanted to control the volume of the DJs. We put in a compressor in the interests of her neighbours. We cannot hear it outside with the windows closed. Customers had been opening the windows but they are now locked. The venue is run very professionally. The level of organisation is very good and the sound systems are very closely controlled. Events seem to be weddings, 50<sup>th</sup> and 60<sup>th</sup> birthdays, perhaps 3 times per month. It is not every week. There is a responsible team of professional people who do their best to be reasonable but still give a good time.

The Chairman asked Ben Vasey to make his statement.

**Ben Vasey made the following statement.**

I am a dance teacher at the dance academy. I had been a student of Mrs Ilsley's and am now a teacher. She has very high standards, including the running of the venue. I have never seen any evidence of crime or bad behaviour. At every event I have attended, there has always been staff and security at the door remaining in complete control of what is going on in and outside the building. This prevents people from being noisy and causing anti-social behaviour.

Boxmoor Hall is a historic building, they hold dance classes, music nights etc. The building is in better shape than it has ever been and has once again become the community hub it was meant to be. They have tried to keep the windows closed. Everyone leaving the premises is asked to keep the noise down and respect the neighbours. Dance and performing arts are at the forefront. Other events help fund and run the dance school. Every experience I have had at Boxmoor Hall has been positive, professional and with community spirit and it has been a pleasure and joy to be around Boxmoor Hall. It is the cultural hub and such care and attention has been taken to make this a great venue for people in Hemel Hempstead.

The Chairman asked each side how long they would need for their summaries after the lunch break. 20 minutes each was agreed.

Mr Hill said if new people arrived after the lunch break, they would have the right to address the committee.

Mrs Thorley said that residents from Heath Park House had been going to make individual representations but, after speaking to Licensing Officers at Dacorum Borough Council, were told they could not make individual representations and they should appoint a representative to speak for them. If that had not been the case there would have been 14 more individuals speaking in support of the licence review.

Mr Hill said the advice given was for them to make representations in support of the first review application, rather than individual review applications in their own right. After that the owners came together and made a single representation.

Mr Scrowther said there was one representation and there was one group of speakers.



The meeting adjourned for lunch at 11.50 am.

The meeting reconvened at 1.05pm.

The Chairman said that there would now be an opportunity for both parties to speak and make their closing statements.

Mr Smith said that he first wished to deal with some of the points raised by Mr Grainger-Carr in the document he had submitted earlier in the hearing to the Sub-Committee.

Mr Smith said that Mr Grainger-Carr's points referred to Mr Smith referencing that the sale of alcohol at the premises as being the main business focus; Mr Smith said that this was not the case and throughout proceedings he had not indicated that this was the case either. Mr Smith said that the licence was for the main part of the business which was performing arts. Mr Smith said that he and his client also refuted claims by Mr Grainger-Carr that the business had been 'cooking' the books to give the illusion that more dance classes were being held at the venue. Mr Smith said that Mr Grainger-Carr's comments about the nuisance involving people congregating in the outside areas should be taken in consideration with the fact that Mr Grainger-Carr had objected to planning applications for rails outside the building which would ideally mediate this problem.

Mr Smith said that in addition he refuted claims by Mr Grainger-Carr that fire inspections had been carried out by his 'cronies', as referred to by Mr Grainger-Carr, and that the fire inspection for Boxmoor Hall had been carried out by a reputable firm. Mr Smith said that although Mr Grainger-Carr had referred to eighteen dance schools in Hemel Hempstead Mr Smith wanted to point out that Boxmoor Hall was the only permanent dedicated dance school venue in the town. Mr Smith said that claims of the venue being used for hen parties was also exaggerated and that the only hen party held in recent times at the venue consisted of one in 2012 where the party had a dance class and one drink.

Mr Smith acknowledged that there had been incidents of windows being open and his client had apologised for this, he also pointed out that locks had now been put on the windows to prevent guests of the hall from opening them and causing disturbance to local residents.

Mr Smith said that Mr Grainger-Carr's estimations around the predominant use of the hall was also inaccurate and that in reality 86% of events were performance events and 14% were other events such as children's parties, wakes, christenings and weddings.

Mr Smith urged the Sub-Committee to consider the evidence presented before them, the bulk of which came from one individual, Mr Grainger-Carr, and then only 2 pages of representation from residents of the flats that only appeared to refer to the two months prior to the licence's review in March 2014. Mr Smith acknowledged that there was clearly acrimony between the two parties but that there was no evidence from the police or other authorities that Boxmoor Hall was the cause of any anti-social behaviour. Mr Smith said that while Environmental Health Officers were going to install noise monitoring equipment soon the Sub-Committee did not yet have independent evidence that justified revoking the licence.

Mr Smith referenced national guidance on the licensing of venues and said that involvement of the police was often a contributing factor to having licences revoked

and that there was no police representation at the Sub-Committee in relation to Boxmoor Hall.

Mr Smith said that the purpose of the licensing was to provide the means to regulate and solve issues as they arose with venues, but considering the venue had been operating for four years why had it taken only until recently for noise monitoring equipment to be installed. Mr Smith said that it would not be proportionate to install noise limitations with no independent evidence. Mr Smith also pointed out that the business could not sustain itself without both aspects of its business; the performing arts and the events. Mr Smith said that there would be a financial impact on Boxmoor Hall with the installation of air-conditioning/noise limitation devices and questioned if that cost would be proportionate considering there was not yet any impartial and independent evidence to prove that activities at Boxmoor Hall were indeed as intrusive as the Sub-Committee were being led to believe by Mr Grainger-Carr. Mr Smith suggested that the measures already being taken like locking the windows was more appropriate. Mr Smith pointed out that nearly all the evidence provided to the Sub-Committee was from Mr Grainger-Carr and that in addition there had been no mention of the noise at the nearby cricket club which was often very loud.

The Chairman thanked Mr Smith for his comments and gave the Premises Licence Holder and her associates the opportunity to address the Sub-Committee. Mrs Ilsley said that she found the whole situation very difficult but that she was very privileged to run activities at a community venue. Mrs Ilsley said she also felt privileged to host people's weddings and see people's involvement in the arts develop at Boxmoor Hall.

Mrs Ilsley acknowledged that there were a few occasions where windows were left open and that apologies had been made for this. Boxmoor Hall hired a security company where appropriate for events and, as the company used was run by her husband, this meant that she was able to have even greater control over ensuring the events ran smoothly.

Mrs Ilsley said that she had spoken to some of the residents in the flats about the issues but that she personally had not had any contact with the Grainger-Carrs but that this hearing was for one of five cases the Grainger-Carrs were currently bringing against her.

Mr Lardner then commented that Mr P Grainger-Carr had carried out a sustained and obsessive harassment campaign against the Premises Licence Holder and said that given the location of Mr Grainger-Carr's house there would always be noise in that area given the close proximity of pubs, the cricket club and a route in to the town centre and so he felt that to attribute all noise and disruption purely to Boxmoor Hall was unfair.

The Chairman then asked the committee members if they had any questions for the Premises Licence Holder or her representative.

Councillor G Sutton asked the Premises Licence Holder why there was the resistance to the installation of sound monitoring equipment when most people in his experience usually installed this equipment when asked to do so. Mr Smith said that in this instance if a sound limiter or monitor was installed at Boxmoor Hall then it would be at the request of Mr Grainger-Carr and not the local authority and that his client did not feel that this was appropriate.

Mr Grainger-Carr said that he did not want the premises to be completely closed and that he had no issue with the performing arts part of the business. Mr Grainger-Carr rejected the idea that he was running a campaign against the Premises Licence Holder

but said instead that there had been a litany of issues and these were valid concerns. Mr Grainger-Carr said that he felt the proposals to develop the frontage of the venue was the last straw.

Mr Grainger Carr said that other residents had also submitted applications similar to the one he had brought against Boxmoor Hall but that they had been advised collectively that it would be more effective for just one application to be brought which was why he was the sole applicant at this Sub-Committee. Mr Grainger-Carr said that there was no reasoning with the Premise Licence Holders, particularly Mr Lardner, who in Mr Grainger-Carr's opinion took no responsibility for any of the issues related to Boxmoor Hall.

Mr Grainger-Carr referred to insinuations that because he was affiliated with the cricket club he ignored potential noise issues from there. Mr Grainger-Carr explained that he was not on the board of the cricket club but had completed some pro-bono work for the club and so had been given the honouree title of 'VP' but was not in any way associated with the day-to-day running of the club.

Mr Grainger-Carr said he had reservations about the Council's Environmental Health team fitting a noise recording device at Boxmoor Hall as he doubted whether the results of this would be a fair reflection of what he and other residents were subjected to as he questioned whether the Premises Licence Holder would allow noisy events to be run when they knew noise recording equipment was present.

Mr Grainger-Carr said that the condition of having all windows and doors closed to limit noise was continually ignored. Mr Grainger-Carr said that having a licence was a privilege and that if conditions were not met it was possible for the licence to be revoked and that he hoped the Sub-Committee would take the basic rights of the residents into account when making their decision.

Mr Grainger-Carr said that he had observed a shift in the nature of the business at Boxmoor Hall and that it was unfair for the residents to be continually monitoring this scenario. Mr Grainger-Carr said that he did not go out of his way to complain and that this case was the first of its nature he had ever had to take out against someone personally and that all they were asking for was that the Premises Licence Holder was respectful to other residents and did not push the boundaries of the licence.

The Chairman then asked Mr Grainger-Carr how long he had lived at his current address. Mr Grainger-Carr said 31 years.

The Chairman then asked the other residents present if they wanted to comment on the application.

Mrs Thorley said that the residents of Heath Park House had been concerned about the noise issues from Boxmoor Hall and that the noise from the open windows and people standing in front of the flat terraces was becoming an increasing problem.

Mr Firth said that he was a Heath Park House resident and had originally rented his property before buying it and during this time he had made numerous complaints to the landlord about the noise. In addition Mr Firth said that he had contacted the police in relation to the noise but that they had told him this was an issue that would need to be handled by the local Council. Mr Firth then said he had contacted the Council and they had advised him to keep noise records. Mr Firth said that the noise was consistent and at a disturbing level and frequently kept him awake. Mr Firth said that it was not just Mr Grainger-Carr who had issues with Boxmoor Hall but others within the community too.

The Chairman then asked Councillor Marshall if she wished to make a representation to the Sub-Committee in relation to her role as Ward Councillor for Boxmoor.

Councillor Marshall said that it needed to be acknowledged that residents had issues on both sides of Boxmoor Hall and that originally there were separate applications in relation to noise issues but that residents had been advised it would have been easier for the Sub-Committee to consider just one application if the issues were the same. Councillor Marshall said that the Heath Park House residents were very separate complainants and residents living on either side of the venue wanted amendments to Boxmoor Hall's licence.

The Chairman thanked all parties for their attendance at the hearing, and, noting the voluminous written representations and supporting material, stated that the committee would retire to consider the matter.

The meeting finished at 2.55 pm

The Sub-Committee deliberated in private and

**Agreed:**

The Licensing of Alcohol and Gambling Sub-Committee, having had regard to the national guidance to licensing authorities and to Dacorum Borough Council's Statement of Licensing Policy, and having taken into account all oral and written representations, agree to modify the conditions of the premises licence, as follows:

1. In Annex 2 of the licence, the condition "People will not be allowed to leave the premises or its frontage with open bottles or glasses", shall be omitted.
2. A new condition shall be added to Annex 3 of the licence, "No person shall be permitted to take any open drinking container outside of the building (excluding refuse disposal by staff)."

This action was considered to be appropriate for the promotion of the 'public nuisance' licensing objective.

Per para 11.20 of the statutory Guidance, the Committee considered the representations made by owners and occupiers of adjacent residential premises and adjudged that there were two primary causes attributed to public nuisance – music emanating from the premises, and noise from persons utilising the frontage.

The Committee noted the ongoing statutory nuisance investigation into the music issue, and determined that it would not be appropriate to pre-empt the outcome of that investigation by taking action at this time, although it would be appropriate for the licence-holder to be issued a warning in accordance with para 11.17 of the Guidance as to her responsibilities under the conditions attached to her licence – namely, that from 20.00 hours, all exterior doors and windows shall remain closed at all times the premises are being used for regulated activities save for access to and egress from the premises.

In respect of the noise arising from the use of the front external area, the Committee noted that the use of external areas for smoking, etc. could not be prevented, but that the time such areas were in use, and as such the potential for nuisance to be caused, could be reduced by prohibiting the removal of drinks from the premises to such areas,

and that it was considered appropriate to take action to this effect to promote the public nuisance licensing objective.

Based on the representations and evidence available to them, the committee did not consider it appropriate to take any of the other actions available to them, including revocation or suspension of the licence, nor removal of licensable activities.

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**DACORUM BOROUGH COUNCIL**

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

**9 JUNE 2014**

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Present –

**MEMBERS:**

Councillors Mrs Green (Chairman), G Sutton and Taylor

**OFFICERS:**

S Scrowther	Solicitor
S Taylor	Lead Licensing Officer
Tony Cawthorne	Environmental Health Officer
P Bowles	Member Support Officer

**Other Persons Present:**

Mr R Rule	Applicant
Mr G Loughran	Applicant
Mr C Trott	Interested party
Mr R Dockerill	Designated Premises Supervisor, the Old Bell, High Street, Hemel Hempstead
Mr P Warne Holder	Solicitor TLT Solicitors, representing the Premises Licence
Mr J Schwartz	Spirit Pub Company (Services) Ltd

The meeting began at 2.00 pm

**1. INTRODUCTIONS**

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

**2. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**3. DECLARATIONS OF INTERESTS**

No interests were declared.

The Chairman informed the Sub-Committee that she was the Ward Councillor for Berkhamsted West and she had not visited the premises.

Councillor Taylor declared that he was the Ward Councillor for Gadebridge and had visited the premises but not for a long time.

Councillor Sutton declared that he was the Ward Councillor for Leverstock Green and he had visited the premises once in the past.

### **LICENCE HEARINGS**

The application was for the review of a premises licence:

The Old Bell  
High Street  
Hemel Hempstead  
Hertfordshire

The Chairman asked the Members of the Sub-Committee to confirm that they had read the Agenda. Councillors Sutton and Taylor confirmed they had read the documents at hand.

The Chairman asked whether all legal obligations had been complied with. S Scrowther confirmed that they had.

Timescales for submissions were discussed and it was agreed that all parties would have 20 minutes to make a statement.

The Chairman then invited the Review applicants to make representations to the Sub-Committee.

### **Mr Rule made the following statement:**

- His main objection was that the pub had become a nightclub on Thursdays, Fridays and Saturdays. They had been unaware of the extent of the noise until a tenant moved into 49c and was unable to sleep due to the loud amplified music and had to stay overnight in a hotel on some weekends. He asked if the pub needed planning permission for a change of use.
- There was a party wall between his property and the Old Bell, and it was inconceivable that any amount of soundproofing would remove the noise and inconvenience. The building vibrated.
- The tenant moved out after a few months, despite initially signing a year's tenancy agreement.
- He and Mr Loughran were disappointed that Environmental Health Officers had not visited to take measurements despite numerous requests. They had been aware in April of the objections.
- Environmental Health Officers did subsequently put forward proposals about insulation without having inspected the property at that time. They did however visit on Thursday 15 May when the noise was not as bad as on a Friday or Saturday night.
- It was his understanding that loud music was prohibited in blocks of flats from 11pm.
- In 2012 when the Old Bell applied for the extension to the Licence the Landlord was not aware of the application and therefore no objections were made at that time.
- The tenant moved in to the flat 1 February 2014 and by 30 March 2014 was complaining about the noise. The tenant had originally wanted a 2 year lease but was given a 1 year lease. He still had 10 months to go when the Landlord allowed him to vacate because of the noise issues.
- The limited objections could be attributed to the lack of publicity of the Review application, and also because if residents made a formal complaint it could

have an adverse effect on their property value and prejudice the sale of their home.

- The written statement made by the solicitor acting on behalf of the brewery was inaccurate.

Mr Rule explained that matters had moved forward in the last few weeks and asked if he could circulate papers to the Committee in response to the brewery solicitor's statement.

The Solicitor for the Council said that further submissions of papers that contained information relating to the solicitors statement would need to be agreed by both parties.

Mr Loughran accepted the ruling.

Mr Loughran therefore summed up the response referred to by Mr Rule as follows:

Mr Dockerill met with the tenant of 49c in May 2014. The tenant had moved into the property after having to move out of his previous property at very short notice. Mr Loughran then proceeded to read out the following statement from the ex-tenant:

"I took the tenancy initially, asking for a 2 year lease, but was given a rolling lease. I was not desperate for the flat, I had looked at many properties before 49c which met my needs and was in the perfect location and beautifully finished. I was devastated at having to leave the property but I have a 9 year old daughter who could not come to stay due to the incredibly loud music and general noise levels emanating from the Old Bell every Friday and Saturday night which resulted in me having to stay in hotels on my weekends with her.

The Landlord came into 49c and at no point did I say that there was no longer an issue with the noise levels. Whether the bathroom door was closed or not, the music levels were horrendous, everything in the flat shook, I could hear every word the DJ said and I could even partake in the pub quiz on a Thursday night whilst in bed.

I wish to vacate for one reason alone – sleep, and the ability to have my daughter at weekends without her being kept awake until the best part of 3.00am. As previously stated, I love the flat and felt that I had no other option.

Reasons for vacating:

1. Noise levels in excess of 90 Decibels frequently.
2. Drunks standing in doorway and urinating and vomiting against the door.
3. Taxis pulling up outside the Old Bell at 2.30am and sounding car horns.
4. Unable to sleep between 9.00pm and approximately 3.00am every Friday and Saturday night.

I hope this clarifies things. I am staggered at the claims that the pub landlord is making and I am happy to make any statements or stand up in any court of law to challenge his claims"

Mr Rule added that he had an email from the lettings agent saying that in respect of the recent advertising of 49c High Street, Hemel Hempstead they have found securing tenants to be problematic. and that the two most recent applicants attracted to the accommodation did not pursue their interest due to the music noise from the adjacent public house penetrating the flat, further compounded by the fact that the public house has a late night license at weekends there was a further email from one of the



perspective tenants giving the reason for him not taking the tenancy due to the noise from the pub at weekends.

Mr Rule finished by saying that all the work carried out in the flats fully complied with building control regulations and had all the documentation to prove this.

Councillor Mrs Green asked when the top floor of the property was converted to flats. Mr Rule replied that planning permission was granted in 2011 and the flats were completed in February 2014.

Councillor Sutton asked if a survey was carried out on the finished property to see if they were sound proof. Mr Rule replied that architectural consultants were employed who applied to building control and received provisional approval subject to improving the sound insulation. A sound report was then commissioned and the recommendations carried out. Building Control had made an inspection and had confirmed that they were due to issue the final approval.

Mr Warne asked 3 questions relating to the statements from Mr Rule and Loughran:

- What was the date of the correspondence from the prospective tenant, giving reasons for not moving in?
- Has the final building control completion certificate been issued?
- Is there now a tenant in 49c?

Mr Rule replied:

- The date of the correspondence from the prospective tenant was 19 May 2014
- The final inspection was carried out in February and was told that the certificate would take a while to come through. An email was sent on 6 June from Building Control to say that the certificate would be issued within a few days.
- The property had now been let to the Assistant Manager of the Old Bell and another employee who had said that they would not be inconvenienced by the noise from the Old Bell because they would be working there until 2am.

The Chairman asked Mr Warne to make his statement.

**Mr Warne made the following statement:**

Mr Warne started with a summary of the timeline as recorded in the agenda:

- The premises were finished and tenanted around 1 February 2014.
- The first complaint was received 4 March 2014.
- Two attempts were made to deal with the problems between Mr Dockerill and Mr Rule and Mr Loughran. Firstly Mr Dockerill offered to speak to the tenant directly. Secondly Mr Rule called into the Old Bell when passing and asked Mr Dockerill how things were going.
- Mr Warne highlighted the e-mails from Mr Rule. The e-mail dated 30 March 2014 to the tenant and his response, and an e-mail on 4 April 2014 to the licensing office at Dacorum Borough Council asking them to revoke the licence (all 3 emails detailed on pages 26 to 28 of the report).
- The first formal meeting was held on 11 April 2014. Mr Warne highlighted that on 10 April before the formal meeting, an e-mail was sent from Mr Rule requesting that the licence be revoked and confirming that the tenant was given consent to vacate the property.
- On 15 April Mr Rule notified the Spirit Pub Company that he would be continuing to make representations to the Licensing Authority.

Mr Warne went into more detail on the following issues:

- With regard to the meeting on 11 April. Spirit Pub Company took the matter very seriously and came to the meeting with a full team to try and resolve matters. Mr Rule's position at the meeting was that the music should stop at 12 midnight, which was different from the position taken in the e-mails requesting that the licence should be revoked.
- No solution was put forward despite an offer to look at the insulation and an offer by Mr Dockerill to visit the flat on the evenings that the disco was on to trial moving speakers, and also to explore other options, such as moving the taxi pick-up point from directly outside the Old Bell.
- Mr Dockerill visited the flat at around 22.30pm on the evening of the meeting but there was no answer from the tenant who subsequently sent an email to Mr Dockerill to say that he was "sound asleep"
- Mr Dockerill visited the tenant the following evening and agreed that there was some noise through the wall, but with the toilet door closed, the sound was minimal and at a level that could be cured.

Mr Warne referred to the current position and stated the following:

- The tenants' position was somewhat different from the statement given by Mr Rule. The tenant had moved into a one-bedroomed flat for personal reasons. He had a 9 year old daughter who visited regularly as well as an 18 year old son. The flat was not appropriate. And Mr Warne suggested that this was the reason that the tenant wanted to end his one year tenancy agreement.
- The property had been re-let to tenants who worked in the Old Bell and this was useful because it meant that there was now access to the premises to address the issues in order to ensure that there would be no noise nuisance in the future.
- Mr and Mrs Trott had made a representation in respect of the variation application that was submitted for the premises in 2012. Their property was a lot further down the High Street from the Old Bell with 3 other licensed properties in-between. 2 other pubs also had late opening times. There were no representations from the police relating to crime and disorder.

The Chairman asked Mr Trott to make his statement.

**Mr Trott made the following statement:**

There was an awareness issue for people living in the High Street about this meeting. He had only learnt about it from a notice attached to a lamp post.

He had no issue with the Old Bell and, as an ex publican, he can empathise with the situation.

The issue he had was nothing to do with the sound situation.

The licensee had difficulty in taking control or responsibility for the people who drink at their pub because the incidents took place after the patrons had left the premises.

When premises stay open until 2.30am, the people leaving the premises cause disturbance.

The Licensing Act 2003 objectives are :

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection for children from harm

Mr Trott asked for guidance on the prevention aspects. He said he was frequently woken by people leaving the pub and believed that these people were from the Old Bell. There were 2 main issues:

- The lateness of the opening hours
- People leaving the Old Bell drunk and witnessing antisocial behaviour from them.

Mr Trott said that it was very difficult when you were woken up at 3am to ring 101 and he was until recently unaware that he could ring 101 the next morning, after the event to log the complaints.

- He queried sound proofing a grade 2 listed building because any work carried out had to be approved.
- He concluded by saying that he was going to encourage other people to join him in making representations, asking if it was right or fair to allow licensed premises to stay open until 2.30am Fridays and Saturdays which allowed customers to cause these disturbances when leaving. He said it wasn't the licensees fault but they had a responsibility to the public and the local residents, and the time factor for this was within the control of the Licensing Sub-Committee.

The Chairman pointed out that when a licence was issued for very late hours, the Licensing Act limited the powers of the Licensing Authority to subsequently reduce the hours. Actual evidence was needed to be able to go against the applicants' request. If no evidence was submitted it was not possible to reduce the hours. That was why complaints should be registered with the police or Environmental Health so that the licensing authority was aware of what was happening.

The Chairman asked Mr Cawthorne to make his statement.

**Tony Cawthorne made the following statement:**

"I became aware of the issue involving alleged noise nuisance from the Old Bell in April 2014. As a result of an alleged complaint, the council procedure was followed and diary sheets were sent to the property affected. These were not returned. I then received the licence review from the licensing department with supporting documentation indicating noise levels of 70 -90 decibels recorded inside the flat up to 2am. I then undertook a site visit to the Old Bell and discussed the alleged noise nuisance and proposed license review on 15 May 2014 with Mr Dockerill. During the discussions with Mr Dockerill I was shown a type 2 sound level meter and a noise diary which had been completed diligently. The readings had been taken every 30 minutes from 7.00pm to 2.00pm. I asked who had made the recordings and where they had been taken from. I was advised that the readings were taken by a member of staff from the middle of the function room and the other 2 rooms above the heads of the audience. I was also advised that noise readings were taken in the street, down the side of the alley and the rear garden.

The levels that were recorded were consistently between 80 and 90 decibels. The levels given caused me concern and on my return to the Council I advised the health and safety team as the levels recorded were in excess of the Noise at Work Regulations for a maximum level of 87 decibels. I was also advised that the noise levels in the rear beer garden were mainly from the patrons. The World Health Organisation (WHO) recognises levels of 55 decibels up to 11pm and after that time 35 decibels outside bedrooms. The levels from the log were around 60 decibels.

The licensing conditions I have requested are as a result of the evidence provided by the Old Bell and I am aware that this issue is being investigated by the Spirit Pub Company and measures are being taken.

I was also advised by Mr Cockerill that negotiations had previously been undertaken between the Licensee and the applicant as to a resolution of the sound insulation that was allegedly offered to be put into the flat accommodation which was refused. I am not aware if the flats when converted to residential from commercial use were built to comply with approved regulations (Document E). This standard requires 43 decibel protection for refurbishment and 45 decibel protection for new build”.

The Chairman asked Mr Cawthorne if the three conditions listed on page 36 remained the same. Mr Cawthorne replied that in his opinion the conditions would resolve the issues between the Old Bell and the flat. He said the first condition would be to identify what the transmission was between the two properties, but this would require both parties to cooperate in order to facilitate this investigation. It was, as stated a grade 2 listed building, but it would not mean the removal of a wall, rather an addition to the wall, requiring building consent.

In response to a further question from the Chairman about the beer garden, Mr Cawthorne answered that the noise levels were in excess of the WHO guidelines. As the beer garden was open until 12.30am and the window of the flat was within feet of the beer garden, it was not possible to comply with the regulations. Regarding the closing of doors and windows, Mr Cawthorne said that they were under the control of the Licensee and these should remain closed to control noise breakout.

Mr Loughran responded to an earlier comment from Mr Warne. He said that the tenant had moved out of 49c into an equally unsuitable one bed roomed flat elsewhere.

The Chairman asked if everybody who had indicated they wanted to speak had spoken. This was confirmed.

The Chairman asked both parties to sum up their statements.

Mr Trott did not wish to add anything to his previous statement.

Mr Warne said the following:

- At most, this was a claim of nuisance that needed to be resolved amongst the parties involved with time given to rectify the issues.
- There is no statement from the tenant of 49a who has been there for over 3 years.
- Paragraph 1.16 of the new licensing guidance stated that the Licensee could not seek to manage the behaviour of customers once they had left the area that was within the direct management of the licence holder and their staff.
- There was a process going on at the moment to check the noise levels by using quite sophisticated equipment to make sure that they complied with the noise at work regulations.
- Regarding the financial considerations, there was a potential financial burden if the conditions were imposed on the activities of the premises license. This should be taken into account when making the decision.
- 49c was to be rented by staff from the Old Bell at a cost of £625 per month but there was a potential revenue loss to the Old Bell if the music restrictions were imposed of between £2½ - 3K, equating to 30% of revenue

- The son of the landlord who lived in 49a had never made a complaint about the noise.
- The complaints from 49c covered a very short period of time between February and April 2014, with this hearing in the second week of June. This was considered to be too short a period of time given the proactive assistance offered to prevent the Review.
- The Human Rights Act applied to the premises as well as the occupant of the flat.
- Spirit Pub Company and the Designated Premises Supervisor at the Old Bell were willing to work with the landlord and disagreed wholeheartedly that there were no measures that could be put in place to resolve the problems in a sensible manner.
- The evidence submitted did not provide sufficient reasons for the Sub-Committee to 'fetter' the licence.
- With regard to the conditions suggested by the Environmental Health Officer:
  - The condition to stop and regulate entertainment at the premises until there was agreement with the landlord - contact with the landlord had not been easy.
  - The condition to close the beer garden at 11:00pm – there was a neighbour who lived even closer than 49c with their front door virtually stepping into the beer garden and they had made no representations.
  - Closing doors and windows was acceptable when entertainment was taking place.

Mr Warne asked the Sub-Committee to make a proportionate decision following consideration of all submissions. He felt that it was a “cart before the horse” situation and the matters should be sorted out between the parties.

The Chairman pointed out that when a request came in for a review, it was subject to regulations with a time limit that had to be complied with.

Mr Rule summing up said the following:

- He took his own sound readings at the property on 20 May. There had been no improvement in the situation and the property was currently unlettable on the market as specified by the letting agent. With 50-100 revellers, plus amplified music it was impossible to smother the noise by insulation.
- The refurbishment of the flat had only recently been completed to a high standard and it would not be acceptable to start doing anything else to the walls. Anything that needed to be done would have to be to the premises of the Old Bell. The property had not been re-let as of yet although the terms of a reduced rent to the staff members had been agreed.
- Environmental Health were contacted on 3 April 2014 about the noise from the Old Bell, they liaised with the tenant but lost interest in the matter when the tenant moved out, saying they did not look at empty properties. It was empty as a direct result of the noise. Mr Rule said he was now in a situation of stalemate and this had cost him thousands of pounds.
- The property 49a seems to have been ignored. The readings taken by him had registered 40-45 decibels over a 45 minute period. He said that the other property referred to by Mr Warne was detached and as such, did not suffer with transient noise through the wall in the same way as the flats.

Mr Loughran added that his use of the property was in accordance with planning and building regulations, it followed all Government regulations to bring properties into

residential use. He had done everything he was expected to do to make it a comfortable residential property in accordance with all the regulations. He said that the pub had changed their trading policy to create a different use. They were prevented by the Conservation Officer from doing a great deal of work, including the removal of chimney breasts and there was no reason to suspect that any proposal at that time to increase insulation would have been met with approval. Therefore with a change of use and without making the necessary provisions the licensees were suggesting that we delayed our plans until we upgraded our own properties. Mr Loughran requested that the right course of action would be to review the license and for the Licence holder to carry out the necessary work before reapplying.

The Chairman asked the Licence holder if bottles and glasses were taken outside. Mr Dockerill replied not after 12.30am.

The Chairman then asked the Sub-Committee members if they had any questions for the Licence Holder or the applicants.

Councillor Taylor said that Mr Trott was quite right in the four principles that needed to be considered in laying out the terms and conditions of the License. Prevention of public nuisance was the principal being tested with this review. He said that he agreed that Mr Trott could not categorically say that the anti-social behaviour was exclusively from the Old Bell, but it could not be denied that there was a noise element to be considered. The conversion of the property to flats was a change of use for all kinds of reasons and although not every document was in place it was understood that it would soon be. Councillor Taylor asked if the property at 49c was considered unlettable.

Mr Rule said that the letting Agents had said that 49c was unlettable. Two people showed an interest but pulled out when they heard the noise from the Old Bell late at night.

Councillor Taylor addressed Mr Warne. He said that he intimated that every effort would be made to come to a resolution between the parties and show corporate social responsibility and asked if this were so.

Mr Warne agreed that this was the case and always had been in meeting together to try and get to a resolution.

Councillor Sutton said he was aware that there were a number of licensed premises in the Old High Street and asked Mr Dockerill if the noise levels had changed significantly over the last few years. Mr Dockerill replied that he had been at the Old Bell for seven years and for six years there had been a DJ on every Friday and Saturday night and there had been no change in the noise levels.

Mr Warne added that as part of their research they had carried out a small survey and there were some issues with passers-by on Fridays and Saturday evenings. A recent episode was monitored on CCTV but it was not customers from the Old Bell.

Mr Cawthorne asked if he could clarify that the sound levels recorded were accurate, taken over a short period of time and the average levels detected were 80-90 decibels; in excess of the noise at work levels. He considered them excessive, and said that at that level there would be some transmission between one property and another.

Councillor Sutton referred to the comment from Mr Trott about noise from Taxis and suggested that the Licensing Officer might speak to the Taxi companies and remind them that they are not supposed to sound horns.

The Chairman thanked all parties and explained that the Committee would make their decision in private and issue the decision in writing.

The Sub-Committee deliberated in private and

**Agreed:**

The Licensing of Alcohol and Gambling Sub-Committee, having had regard to National Guidance and Dacorum Borough Council's own Licensing Policy and the Licensing Objectives of the Licensing Act 2003, and having taken into account all oral and written representations, agreed to grant the premises licence as set out below.

The Sub-Committee resolved to modify the conditions of the licence, by adding the following condition to Annex 3:-

"No open bottles, beverages or glasses to be taken into the beer garden after 11.30pm"

This change is considered by the Committee to be appropriate for the promotion of the public nuisance licensing objective.

By para 11.20 of the June 2013 Guidance to Licensing Authorities (this being the applicable Guidance to the date of issue of this review), "In deciding which of these [review] powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportional response."

The Sub-Committee considered the representations made by the owners, and adjudged that there were two primary causes attributed to public nuisance – music emanating from the premises, and noise from the beer garden. The Sub-Committee noted the ongoing investigation into the music issue, and determined that the licence-holder had made all reasonable efforts practicable to engage with the applicants to alleviate any nuisance. The Sub-Committee noted the applicant's refusal to accept sound proofing works to the interior of the adjoining property.

Committee had regard for, amongst others, para 11.10 of the 2013 Guidance and in particular to the statement, "Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation."

In respect of the noise arising from the use of the beer garden, the Committee having regard for para 2.22 of the 2013 Guidance noted that the use of external areas for smoking, etc, could not be prevented but that the times such areas were used, and the potential for nuisance to be caused, could be reduced by limiting the period of time for the removal of drinks from the premises to such areas, and that it was considered appropriate to take action to this effect to promote the public nuisance licensing objective.

The meeting finished at 3.15 pm