

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL  
LICENSING COMMITTEE – 2<sup>ND</sup> AUGUST 2004  
REPORT OF THE MANAGER OF CENTRAL SUPPORT**

**Local Government (Miscellaneous Provisions) Act 1982  
Application for the Renewal of Public Entertainment Licence**

**Purpose of Report**

To determine an application for the renewal of the Public Entertainment Licence in respect of Arty's, 60a Market Street, Ashby de la Zouch, Leicestershire. The applicant is Mr Arthur Martin Michael Holland.

**Remit of the Board**

To determine the application.

**Policy Matters**

None.

**Financial/Staff Resources**

None.

**Anti-Poverty**

None.

**Crime and Disorder**

The Chief Officer of Police is a statutory consultee for matters including crime and disorder relating to public entertainment licence applications.

Section 17(1) of the Crime and Disorder Act 1998 places a duty on local authorities to exercise its 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.

Standard conditions subject to which public entertainment licences are granted, renewed or transferred include requirements relating to proper supervision, maintaining good order in premises, undesirables and intoxicants.

**Human Rights**

Under Article 1 of the First Protocol, licence holders are entitled to the peaceful enjoyment of their possessions.

Under Article 8 of the First Protocol, everyone has the right to respect for his private and family life, his home and his correspondence.

## **1. Legislation**

- 1.1 The licensing of public entertainment is controlled by the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 A public entertainment licence is required for public dancing, music or any other entertainment of a like kind.
- 1.3 Under Paragraphs 1(4) and 2(4) to Schedule 1 of the Act, the District Council may grant or renew a licence subject to such terms and conditions and subject to such restrictions as may be so specified.
- 1.4 The power to impose conditions is broadly specified and enables any conditions to be imposed which are bona fide for a public purpose relating to the situation caused by the use of the premises in accordance with the terms of the licence. Conditions that are not so related however, will be ultra vires.
- 1.5 In addition to 1.3 above and in accordance with Paragraph 11(1), the District Council has prescribed standard conditions subject to which every indoor public entertainment licence is granted, renewed or transferred unless they have been expressly excluded or varied. The conditions fall within three broad headings of public safety, public health and public order.

## **2. Background**

- 2.1 A public entertainment licence is currently issued to Mr Arthur Holland in respect of premises trading as Arty's and situated at 60a Market Street, Ashby de la Zouch. The said licence expired on 31<sup>st</sup> March 2004.
- 2.2 Where, before the date of expiry of an entertainment licence, an application has been made for its renewal, it shall be deemed to remain in force until the application is determined or withdrawn. On 27<sup>th</sup> February 2004 Mr Holland made application to renew the licence and may therefore continue to operate under the terms of that licence. A copy of the current licence, additional conditions and renewal application are attached as appendices 1, 2 and 3 respectively.
- 2.3 Public entertainment is currently permitted at the premises on the following days and times:-

Monday, Wednesday and Sunday	9.00am to 12.00 midnight
Thursday, Friday and Saturday	9.00am to 2.00am the following morning
- 2.4 On 22<sup>nd</sup> April 2004 a letter was received from Ashby de la Zouch Town Council objecting to the renewal of a licence providing for closing hours beyond 0100 hours. A copy of the letter is attached as appendix 4.
- 2.5 In reply to this, on 12<sup>th</sup> May 2004 officers forwarded correspondence to the Town Council requesting the grounds for the objection relating to relevant premises. A copy of the letter is attached as appendix 5.

- 2.6 On 21<sup>st</sup> June 2004 a further letter was received from the Town Council setting out the reasons for their objection, a copy of which is attached as appendix 6.
- 2.7 No other objections or representations have been received from local residents or consultees, namely, the Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Environmental Protection Department, Health and Safety Department and Ward Councillors.
- 2.8 A licence has been issued to Mr Holland to use the premises for the purposes of public entertainment since 19<sup>th</sup> December 2002. The Licensing Section has received no complaints regarding the operation of the premises during that time.

### **3. Relevant Considerations**

- 3.1 Relevant considerations must be taken into account by licensing authorities when in determining whether or not a licence should be granted or renewed. These will include the fitness of the applicant to hold a licence, the nature of the entertainment, the suitability of the place at which the entertainment takes place and the facilities that are provided there.
- 3.2 The main grounds for the Town Councils objection relate to 'noise and disruption in the early hours of the morning' and both noise nuisance and public order issues are relevant in the present context. Noise may occur due to unacceptable noise levels arising from the entertainment itself or by those attending the entertainment. Noise and public order issues may also arise where there is drunkenness or misbehaviour.
- 3.3 Members should have regard to any evidence of noise or public order occurrences and whether it can be demonstrated that public order or nuisance can be attributed to the operation of the premises for public entertainment purposes or its customers.

### **4. Options**

- 4.1 The Committee has in principle a number of options open to it in determining this application. Clear reasons should be given for the decision made and any such reasons would need to be capable of being substantiated at any appeal hearing. The Legal Advisor for the committee will be able to advise members at the meeting on this area

#### **4.1.1 Renew**

The Committee may determine to renew the licence on its existing terms and conditions.

#### **4.1.2 Renew with Conditions**

The Committee may determine to renew the licence subject to altered or additional conditions.

The applicant has a right of appeal to a magistrate's court if they are aggrieved by any term, condition or restriction on or subject to which the licence is held.

#### 4.1.3 Refuse

The Committee may determine to refuse to renew the licence.

The applicant has a right of appeal to a magistrate's court against refusal to renew a public entertainment licence.

#### 4.1.4 Renew for Shorter Period.

All public entertainment licences issued by this authority expire on 31<sup>st</sup> March. If Members were to renew the licence therefore, it would expire on 31<sup>st</sup> March 2005. It is however, open for the Committee to renew the licence for a lesser period if considered appropriate.

### 5. **RECOMMENDED:**

- 5.1 That the application by Mr Holland for the renewal of the public entertainment licence in respect of Arty's be determined having regard to the representations by the Town Council, applicant, and any other relevant circumstances.**

Background Papers: None

L Gill  
Manager of Central Support  
21<sup>st</sup> July 2004

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