

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 21 SEPTEMBER 2005

Title of report	RENEWAL OF PUBLIC ENTERTAINMENT LICENCE
Contacts	Portfolio holder – Councillor Dai Male Tel: 01530 451725 dai.male@nwleicestershire.gov.uk Licensing Officer – Joanne Brookbanks Tel: 01530 454844 joanne.brookbanks@nwleicestershire.gov.uk
Purpose of report	To determine the application for the renewal of the Public Entertainment Licence in respect of Ciro's, 79 Market Street, Ashby De La Zouch, Leicestershire. The applicant is Ms Lisette Bell-Simmonds.
Strategic aims	This report impacts on the following strategic aims for North West Leicestershire District Council: 1. Supporting communities in reducing crime and fear of crime. 2. The provision of good leisure and recreational facilities. 3. To improve town centres in the district and support the development of communities within them.
Implications: Financial/Staff Health/Anti-Poverty	None. Potential implications arising from an appeal by the applicant to the Magistrates Court if aggrieved by the decision of the committee. There is no specific budget provision for such appeal and if such costs did arise a supplementary estimate would be required. None.

Crime and Disorder	<p>The Chief Officer of Police is a statutory consultee for matters including crime and disorder relating to public entertainment licence applications (including applications for variations).</p> <p>Section 17 (1) of the Crime and Disorder Act 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 it reasonably can to prevent crime and disorder in the area.</p>
Risk Management	None.
Human Rights	Under Article 1 of the first protocol, Licence holders are entitled to the peaceful enjoyment of their possessions, except in the public interest and subject to the conditions provided for by law.
E-Government	None.
Comments of Monitoring Officer	Satisfactory
Comments of Section 151 Officer	Satisfactory
Comments of Head of Paid Service	Satisfactory
Consultees	Leicestershire Constabulary, Leicestershire Fire and Rescue, Parish Council, Environmental Protection Department, Health and Safety Department and Ward Councillors.
Background papers	See appendices.
Recommendations	That the application by Lisette Bell-Simmonds for the renewal of a Public Entertainment Licence for Ciro's nightclub, 79 Market Street, Ashby de la Zouch be determined having regard to the representations by the Town Council, applicant and any other relevant circumstances.

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 any public, music, dancing or entertainment of a like kind.
- 1.3 Under paragraph 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 which are not so related however, will be ultra vires. Please note that conditions may be added to prevent people in the neighbourhood being unreasonably disturbed with noise. It is not necessary for the level of noise to be so great as to constitute noise nuisance under the Environmental Protection Act 1990.
- 1.5 Ciro's has the benefit of a Special Hours Certificate (Section 77) issued by the Magistrates Court under the Licensing Act 1964. The effect of this certificate is to extend the hours during which alcohol may be sold up to 2.00am the following morning Fridays and Saturdays. Special hours certificates can only be obtained if premises hold a Public Entertainment Licence for those extended hours and Magistrates are satisfied that drinks sold will be ancillary to music and dancing and substantial refreshments. It is officers understanding that the sale of alcohol after midnight must cease when the music and dancing ceases, therefore if the hours during which public entertainment is permitted are reduced to 1.00am, for example, then the hours during which alcohol may be sold will reduce accordingly.
- 1.6 In addition to the above and in accordance with paragraph 11(1), the District Council has prescribed Licence 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.
- 1.7 In accordance with The Licensing Act 2003 Miss Bell-Simmonds made application to the District Council to convert her current Licences (Justices On Licence, Special Hours Certificate and Public Entertainment Licence) into a Premises Licence during the transitional period. Only the Police are entitled to make representations to such applications and did not do so in this case. Miss Bell-Simmonds' application has therefore been approved and a Licence will be issued that permits her to operate as she did on 7 February 2005 including being able to close at 2am in the morning.

2. BACKGROUND

- 2.1 A Public Entertainment Licence is currently issued to Lisette Bell-Simmonds in respect of premises trading as Ciro's and situated at 79 Market Street, Ashby de la Zouch. The said licence expired on 31 March 2005.

- 2.2 Where, before this date the expiry of an entertainment licence, an application is has been made for its renewal, it shall be deemed to remain in force until the application is determined or withdrawn. On 2 February 2005 Ms Bell-Simmonds made application to renew the licence and may therefore continue to operate under the terms of the licence. A copy of the licence document and renewal application are attached as appendices 1 and 2 respectively.
- 2.3 Public Entertainment is currently permitted at the premises on the following days and times:
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| Monday to Thursday and Sunday: | 9.00am until 12.00 midnight |
| Friday and Saturday: | 9.00am until 2.00am the following morning |
- 2.4 ... On 25 January 2005 a letter was received from Ashby de la Zouch Town Council objecting to the renewal of the licence providing for closing hours beyond 0100 hours. A copy of the letter is attached at appendix 3.
- 2.5 ... In reply to this on 31 January 2005 officers forwarded correspondence to the Town Council regarding the grounds for their objection and any evidence. A copy letter is attached at appendix 4.
- 2.6 ... On 8 March 2005 a further letter was received from the Town Council setting out the reasons for their objection and providing supporting figures from crime statistics. A copy of this letter is attached at appendix 5.
- 2.7 No other objections or representations were received from local residents or consultees, namely, Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Environmental Protection Department, Health and Safety Department and Ward Councillors in reply to the renewal application.
- 2.8 ... Whilst the Leicestershire Constabulary raised no objections to the renewal of the licence when consulted in the first quarter of this year, officers felt it appropriate to contact them once again having regard to the nature and content of the objection from the Town Council and the request of the Town Council to reduce the closing time to 0100hrs on the Crime and Disorder Act 1998. On 11 May 2005 Officers wrote to Inspector Straughan at Ashby Local Policing Unit providing him an opportunity to comment. A copy of the letter and Inspector Straughan's response are attached at appendices 6 and 7 respectively.
- 2.9 This matter was originally brought before the committee on 3 August 2005. Inspector Straughan indicated at the meeting he wished to introduce new evidence of arrest figures. The applicants Solicitor applied for and was granted an adjournment to allow him time to consider the evidence and prepare questions for the police representative Inspector Straughan.
- 2.10 ... Since that meeting Officers have had contact from Inspector Straughan and a letter re-evaluating his comments in his letter of 26 May 2005 a copy of which is attached at appendix 8.

- 2.11 Officers contacted Inspector Straughan upon receipt of this letter to request copies of the additional evidence that he produced at the previous hearing of 3 August 2005. Inspector Straughan verbally informed Licensing Officer Joanne Brookbanks that he no longer wished his additional information to be available for consideration at this hearing.
- 2.12 Copies of the report have been provided to all parties with an invitation to attend the meeting.
- 2.13 Records show that the premises has been Licensed for the purpose of Public Entertainment since December 17 1983, initially until 12.00 midnight. An extension on Fridays and Saturdays until 1.00am the following morning was permitted on 26 October 1987 and a further extension until 2.00am the following morning on 1 October 1998. No complaints regarding the operation of the premises have been received by the Licensing section since the issue of the Licence.

3. RELEVANT CONSIDERATIONS

- 3.1 Relevant considerations must be taken into account by Licensing Authorities when 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 Council's objection relate to disturbance of local residents during the early hours of the morning and the increased assaults in Ashby at certain times of the day.
- 3.3 Members should have regard to any evidence of disturbance to local residents and increased assaults and whether it can be demonstrated that this evidence 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 in this area.

(a) **Renew:**

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

(b) **Renew with conditions:**

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

(c) **Refuse:**

The committee may determine to refuse to renew the licence.

(d) **Renew for a shorter period:**

All public entertainment licences issued by this Authority expire on 31 of March each year. However, because of the introduction of the Licensing Act 2003, if members were to renew the public entertainment licence it would expire on 24 November 2005 when the new law comes into force. The applicant has already been granted a Premises Licence under the Licensing Act 2003 with a terminal hour of 2.00am. The Police did not object to this application to convert the existing Licences to a new Premises Licence and therefore any variation of the existing Public Entertainment Licence, ie by reducing the terminal hour to 1am will have no effect as from 24 November 2005 when the new Premises Licence comes into force.

L Gill
Manager of Central Support
12 September 2005

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