

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 3rd August 2005

Title of report	Renewal of Public Entertainment Licence
Contacts	<p>Portfolio holder – Councillor Dai Male Tel: 01530 451725 dai.male@nwleicestershire.gov.uk</p> <p>Licensing Officer – Joanne Brookbanks Tel: 01530 454844 joanne.brookbanks@nwleicestershire.gov.uk</p>
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	<p>This report impacts on the following strategic aims for North West Leicestershire District Council:</p> <ol style="list-style-type: none"> 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	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.
Health/Anti-Poverty	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.</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	Not applicable.
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, every one has the right to respect for his private and family life, his home and his correspondence.
E-Government	None.
Comments of Monitoring Officer	
Comments of Section 151 Officer	
Comments of Head of Paid Service	
Consultees	Leicestershire Constabulary, Leicestershire Fire and Rescue, Environmental Protection Department, Health and Safety Department and Ward Councillors, Ashby de la Zouch Town Council and members of the public by way of notice displayed at the premises and notice in the local press.
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 Licensing authorities have a very wide discretion under Schedule 1 to the 1982 Act when determining licence applications, for there are no criteria or grounds specified for the grant or refusal of a licence.
- 1.5 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 and this may include conditions relating to preventing people in the neighbourhood being unreasonably disturbed by noise. Conditions that are not so related however, will be ultra vires.
- 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 Paragraph 6(4) of the Local Government (Miscellaneous Provisions) Act 1982 requires that in considering any application for the grant, renewal or transfer of an entertainment licence, the authority has regard to any observations submitted to them by the Chief Officer of Police.
- 1.8 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.

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 the 31st 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 the 2nd February 2005 Ms Bell-Simmonds made application to renew the licence and may therefore continue to operate under the terms of the licence. Copies 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:

Monday to Thursday and Sunday: 9.00am until 12.00midnight

Friday and Saturday: 09.00am until 02.00am the following morning

2.4 On the 25th 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 01.00am. A copy of the letter is attached as appendix 3.

2.5 In reply to this on the 31st January 2005 officers forwarded correspondence to the Town Council regarding the grounds for their objection and any evidence. A copy letter is included as appendix 4.

2.6 On the 8th 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 the letter is attached as appendix 5.

2.7 No other objections or representations have been received from local residents or consultees, namely, Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Environmental Protection Department, Health and Safety Department and Ward Councillors.

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, the request of the Town Council to reduce the closing time to 1.00am and the Crime and Disorder Act 1998. On the 11th May 2005 Officers wrote to Inspector Straughan at Ashby Local Policing Unit providing an opportunity to comment. A copy of the letter and Inspector Straughan's response are attached as appendix 6 and 7 respectively.

2.9 Records show that the premises has been Licensed for the purpose of Public Entertainment since December 17th 1983. Initially until 12.00 midnight. An extension on Fridays and Saturdays until 1.00am the following morning was permitted on the 26th October 1987 and a further extension until 2.00am the following morning on the 1st 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 Councils objection relate to noise and disruption in the early hours of the morning and an increase in violent crime - particularly assaults – in the last 2 years.
- 3.3 Members will note that the Leicestershire Constabulary, in their letter of 26th May 2005, supports an earlier closing time of 1.00am. The main grounds for this being police resource, overtime expenditure, and an increase in violent crime.
- 3.4 No objections were raised by the Police to the renewal of the licence when consulted at the beginning of the year and the comments/observations are clearly outside of the consultation period. However, paragraph 6(4) as set out in 1.7 above is expressed in mandatory terms and it would not seem open to an authority to disregard the submission.
- 3.5 Premises may pose a risk of nuisance to the public in a number of ways. This may occur where there are likely to be unacceptable noise levels, either arising from the entertainment itself or occasioned by those attending the entertainment. It may also occur where there is drunkenness or misbehaviour. This may be on the part of those attending the entertainment which takes place on the premises or misbehaviour on the part of those persons not attending the entertainment which takes place outside in the immediate environs of the premises.
- 3.6 Premises may pose a risk to public order, whether this originates inside or outside the place to be licensed. As with the occurrence of nuisance, any public disorder may be the result of the licensee's inability to exercise proper control, but it need not be. Public disorder may occur notwithstanding that the premises are properly managed and the presence of the premises may contribute or aggravate this.
- 3.7 Members should have regard to any evidence regarding disturbance to local residents and/or crime statistics 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 principal 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.

Renew:

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

Renew with conditions:

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

Refuse:

The committee may determine to refuse to renew the licence.

Renew for a shorter period:

All public entertainment licences issued by this authority expire on the 31st 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 the 24th November 2005 when the new law comes into force, however it is open for the committee to renew the licence for a lesser period if considered appropriate.

L Gill
Manager of Central Support

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