

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE – 1ST OCTOBER 2007

Title of report	APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
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Purpose of report	To determine an application for the variation of a Premises Licence in respect of premises trading as Arty's, 60a Market Street, Ashby de la Zouch, Leicestershire, LE65 1AN. This report outlines the application and summarises the representations received. It also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.
Strategic aims	
Implications:	
Financial/Staff	Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.
Health/Anti-Poverty	None.
Crime and Disorder	All local authorities must fulfil their obligations under Section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
Risk Management	Not applicable.
Human Rights	Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment of his possessions, except in the public interest and subject to the conditions provided for by law.
E-Government	None.
Consultees	Leicestershire Constabulary, Leicestershire Fire and Rescue

	Service, Trading Standards, Health and Safety, Environmental Protection, Planning and members of the public/local businesses by way of notice on the premises and in the local press.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises currently operate as a nightclub under the authorisation of a premises licence. The premises licence authorises the sale by retail of alcohol, regulated entertainment and late night refreshment subject to conditions. The conditions stated on the premises licence are the mandatory conditions and the conditions converted over from the old public entertainment licence. A copy of the summary of the premises licence is attached as appendix 1 which details the permitted activities and hours at the premises.
- 1.2 An application for the variation of the premises licence was received on 9th August 2007 from the premises licence holder, Arthur Martin Michael Holland. A copy of the full application is attached as appendix 2.
- 1.3 The variation is requesting the following increase in hours:

Sale by retail of alcohol, late night refreshment and the provision of regulated entertainment indoors comprising live music, recorded music, performances of dance, anything similar to live music, recorded music or performances of dance, provision of facilities for making music, dancing and anything similar during the following times:

- Monday to Wednesday – 10am to 12 midnight.
- Thursday – 10am to 2am the following morning.
- Friday and Saturday – 10am to 4am the following morning.
- Sunday – 10am to 2am the following morning.
- Christmas Eve and Christmas Day, if falling on a Monday to Thursday inclusive, 10am to 2am the following morning.
- New Year's Eve at the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

1.5 The applicant has also requested that the following condition be removed from the premises licence. The removal of this condition would allow the applicant to offer topless pole dancing at the premises as stated on the application form.

‘The premises shall not be used for striptease or entertainment of a like kind or dancing which involves nudity or the sexual stimulation of patrons. This condition does not apply to any entertainment that is an integral part of a licensed performance of a play.’

1.6 The applicant has stated in the operating schedule of the application form that he will take the following steps in order to promote the four licensing objectives:

- Those provisions currently in place which allow for the premises to promote the four licensing objectives will be extended to cover the variations appropriately.
- It is understood that other licensed premises in the vicinity open up until 2.00am on Friday and Saturday nights. This proposal will allow for some of these patrons leaving those premises to use the premises subject to this application and in doing so assist in the staggered dispersal of persons using the town centre at that time.
- Persons under the age of 18 are not admitted on the premises.

1.7 Please note that the premises licence is located within North West Leicestershire District Council’s Saturation Policy area. The policy is located with the Licensing Authority’s Statement of Licensing Policy and creates a rebuttable presumption that applications for variations of premises licences will normally be refused unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants will need to address the special policy issues in their operating schedule and in the Licensing Sub-Committee in order to rebut this presumption.

2.0 Representations

2.1 In respect of a variation application, the applicant is responsible for advertising the application by way of a notice in the specified form at the premises for not less than 28 consecutive days and in a local newspaper. The applicant placed notice in the # on # and officers are satisfied that the correct notices have been displayed at the premises.

2.2 The applicant is also required to serve a copy of their application on each of the responsible authorities, namely, the Police and Fire authorities, Trading Standards Department and the District Councils Health and Safety, Environmental Protection and Planning Sections.

2.3 A representation has been received from the Leicestershire Constabulary on the grounds of crime and disorder, public nuisance and the protection of children from harm. A copy of the representation is attached as appendix 3.

2.4 There have been no representations from any of the remaining responsible authorities.

- 2.5 Interested parties in the vicinity of the premises are able to make representations within 28 days of the application being submitted to the Licensing Authority.
- 2.6 Eighteen representations have been received from residents in the vicinity of the premises on the grounds of public nuisance, public safety, the protection of children from harm and crime and disorder. Copies of the representations are attached as appendices 4 to 21.
- 2.7 A further representation has been received from Ashby de la Zouch Town Council representing residents in the vicinity of the premises. The representation is on the ground of public nuisance. A copy of the representation is attached as appendix 22.

3.0 Statutory Guidance

- 3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 2.1 to 2.51 and 8.28 to 8.38 may have a bearing upon the application.

4.0 Statement of Licensing Policy

- 4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 2.3 to 2.6, 3.1 to 3.10, 4.1 to 4.6, 5.1, 5.2, 5.4, 6.1 to 6.10, 7.1 to 7.6, 8.1 to 8.7, 9.1 to 9.18, 12.1, 16.1 and 16.2 may have a bearing upon the application.

5.0 Observations

- 5.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 5.2 The Committee must take such of the following steps, as it considers necessary for the promotion of the licensing objectives:
- a) Grant the application as requested.
 - b) Modify the conditions of the licence, by altering or omitting or adding to them.
 - c) Reject the whole or part of the application.
- 5.3 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant and persons who made relevant representations.