

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – 7 January 2010

Title of report	APPLICATION FOR VARIATION OF A PREMISES LICENCE
Contacts	<p>Councillor Alison Smith 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Commercial Services Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 4545956 andy.cooper@nwleicestershire.gov.uk</p>
Purpose of report	To determine an application for variation of a premises licence in respect of premises, Ashby Grill, 78 Market Street, Ashby De La Zouch, Leicestershire, LE65 1AP. 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	Strong and Safer Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>Safer CAT.</p> <p>The usual risks of cost involved if the applicant appeals against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality impact assessment to be undertaken during 2009/2010.</p> <p>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.</p>

Transformational Government	Not applicable.
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.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003, the Licensing Act 2003 - all 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 are a town centre take-away facility which has the benefit of a premises licence under the Licensing Act 2003. A copy of the premises licence is attached as **appendix 1**.
- 1.2 A map showing the location of the premises is attached as **appendix 2**.
- 1.3 An application for variation of premises licence was received on the 13th November 2009 from Mr A Tosun and Mr R Tosun. A copy of the application is attached as **appendix 3**. The variation of premises licence is detailed as follows.

Provision of late night refreshment

Current permitted licensable activity Monday to Sunday 23:00 to 01:00hrs. The application is to extend the terminal hour to 02:30hrs on all days.

- 1.4 The applicant has specified no further steps that they will take in order to promote the four licensing objectives.

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 specified form at the premises for not less than 28 consecutive days and in a local newspaper. The applicant placed notice in the Ashby Times on 20th November 2009 and officers are satisfied that the correct notices have been displayed at the premises.
- 2.2 The applicant is also required to serve each of the responsible authorities, namely, the Police, Fire Authorities, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. Officers are satisfied that the applicant has served all parties as required. No representations have been received from the responsible authorities.

2.3 Interested parties in the vicinity of the premises are able to make representations within 28 days of display of the notice of application to the Licensing Authority. One representation has been received from an interested party based on crime and disorder, public safety and the prevention of public nuisance. A Copy of the representation is attached as **appendix 4**.

2.4 Ashby De La Zouch Town Council has submitted a letter in support of the objections raised by Ashby De La Zouch Civic Society.

3.0 Cumulative Impact

3.1 The premises are situated in Market Street, Ashby De La Zouch which is within the area of the special policy on cumulative impact referred to in the Council's Statement of Licensing Policy.

3.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

3.3 The Licensing Authority recognises that this policy cannot be absolute and will consider each application properly on its merit and those that are unlikely to contribute to the cumulative impact problems will be approved.

4.0 Statutory Guidance

4.1 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 2.18, 2.19, 2.32 to 2.40, 3.32 to 3.39, 8.5 to 8.11 and 13.29 to 13.32 may have a bearing upon the application.

5.0 Statement of Licensing Policy

5.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 2.1, 2.3 to 2.6, 3.1 to 3.10, 4.1 to 4.3, 5.1, 5.3, 7.1, 7.2, 8.1, 8.2, 9.1 to 9.3, 12.1 and 17.3 may have a bearing upon the application.

6.0 Observations

6.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

- the prevention of crime and disorder;
- the prevention of public nuisance;
- public safety;
- the protection of children from harm.

- 6.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:
- a) Grant the application as requested.
 - b) Exclude from the scope of the licence any of the licensable activities to which the application relates.
 - c) Reject the whole or part of the application.
 - d) Add any conditions necessary for the promotion of the licensing objectives.
- 6.3 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant, premises licence holder and persons who made relevant representations.

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL****Premises licence number**

NWL20410

Part 1 – Premises details**Postal address of premises, or if none, ordnance survey map reference or description**

Ashby Grill, 78 Market Street, Ashby De La Zouch

Post town

Leicestershire

Telephone number**Post code**

LE67 1AP

Where the licence is time limited the dates**Licensable activities authorised by the licence**

Provision of Late Night Refreshment

The time the licence authorises the carrying out of licensable activities**Provision of Late Night Refreshment**

Monday to Sunday - 23:00hrs to 01:00hrs

The opening hours of the premises

Monday to Sunday

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

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Mr Abdurrahman Tosun & Mr Ragfet Tosun
15 South Avenue
Wigston
Leicester
Leicestershire
LE18 2ES

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

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

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence number of Designated Premises Supervisor:

Issuing Authority:

Annex 1 – Mandatory conditions

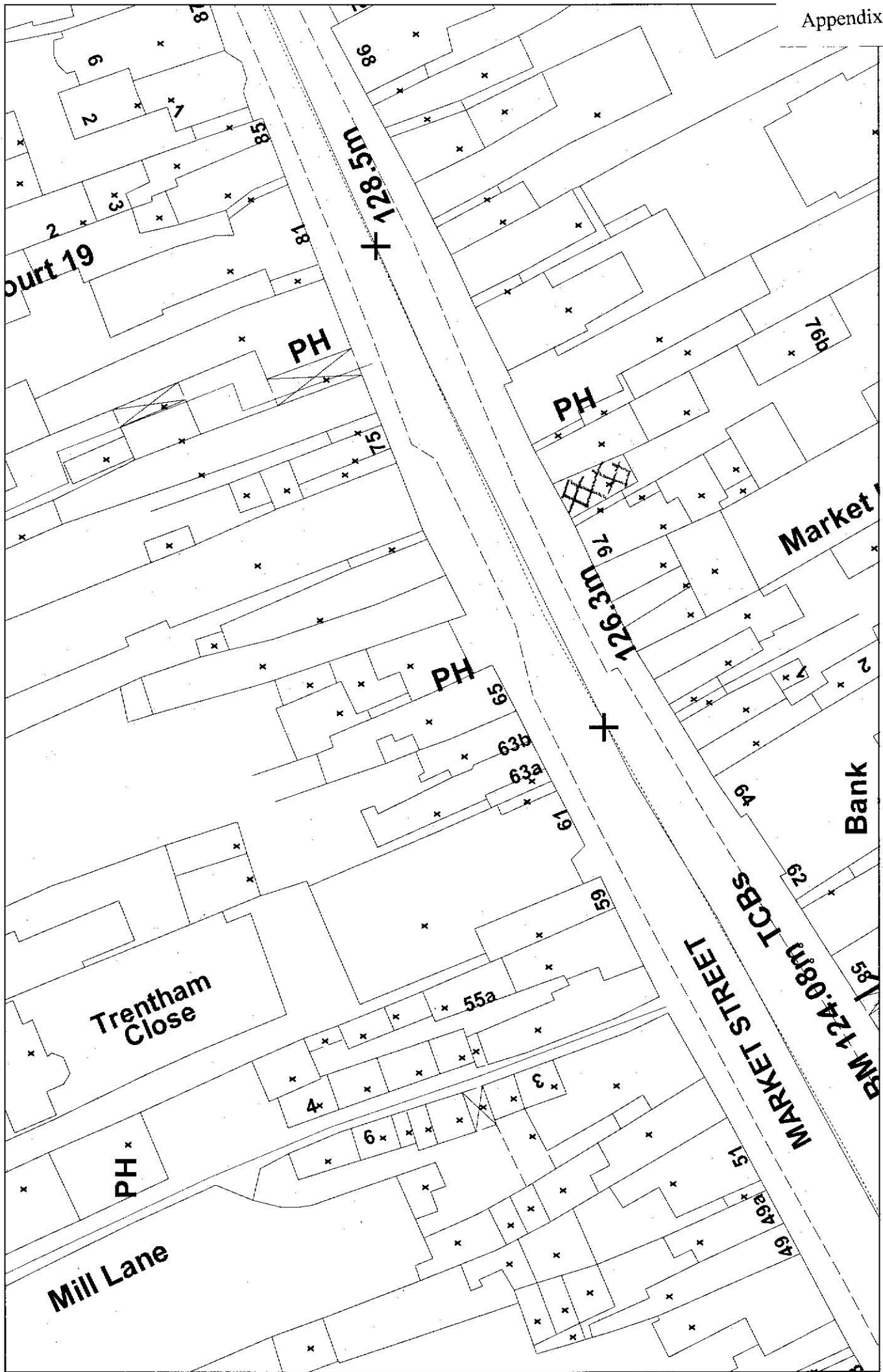
Annex 2 – Conditions consistent with the operating schedule

1. A public refuse bin shall be installed outside of the premises.

Annex 3 – Conditions attached after a hearing by the licensing authority

1. No children under 16 to be unaccompanied by an adult on the premises after 11:00 pm.
2. The premises shall participate in the Police / Pub watch radio system.
3. The shop front and pavement areas shall be cleaned at the close of business each day.
4. A CCTV system shall be installed to the satisfaction of Leicestershire Constabulary and maintained in accordance with guidance from the information commissioner.

Annex 4 - Plans



Date: 15 December 2009
 SLA: Not Set
 Scale: 1:625

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Insert name and address of relevant licensing authority and its reference number (optional)

North West Leicestershire District Council
 Council Offices
 Whitwick Road
 Coalville
 Leicestershire
 LE67 3FJ

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.

XWe Mr A Tosun & Mr R Tosun
 (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

NWL20410

Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference, or description

Ashby Grill, 78 Market Street

Post town Ashby de la Zouch

Post code LE65 1AP

Telephone number at premises (if any)

Non-domestic rateable value of premises

£ 7,600.00

Part 2 - Applicant Details

Daytime contact telephone number

E-mail address (optional)

Current postal address if different from premises address

Post Town

Postcode

Part 3 - Variation

Please tick Yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please describe briefly the nature of the proposed variation (Please see guidance note 1)
 To extend the terminal hour for late night refreshment to 2.30 a.m. every day of the week.

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 Yes

- 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 entertainment facilities for:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for performing plays (please read guidance note 4)		
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 5)			
Sat						
Sun						

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for the exhibition of films (please read guidance note 4)		
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 5)			
Sat						
Sun						

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			State any seasonal variations for indoor sporting events (please read guidance note 4)
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			
Indoor sporting events Standard days and timings (please read guidance note 6)			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 (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors	
Day Start Finish				Outdoors	
Day	Start	Finish	Both		
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for the performance of live music (please read guidance note 4)		
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 5)		
Sat						
Sun						

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for playing recorded music (please read guidance note 4)		
Thur						
Fri				Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat						
Sun						

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors				
				Outdoors				
				Both				
Day	Start	Finish	Please give further details here (please read guidance note 3)					
Mon								
Tue								
Wed						State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat								
Sun								

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors	
Mon				Outdoors	
				Both	
Tue			Please give further details here (please read guidance note 3)		
Wed					
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

I

Provision of facilities for making music Standard days and timings (please read guidance note 6)			Please give a description of the facilities for making music you will be providing			
			Will the facilities for making music be indoors or outdoors or both - please tick ✓ (please read guidance note 2)		Indoors	
					Outdoors	
					Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed						
Thur						
Fri						
Sat						
Sun						
			State any seasonal variations for the provision of facilities for making music (please read guidance note 4)			
			Non standard timings. Where you intend to use the premises for provision of facilities for making music entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)			

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both - please tick ✓ (see guidance note 2)		Indoors	
					Outdoors	
					Both	
			Day	Start	Finish	Please give a description of the facilities for dancing you will be providing
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed						
Thur						
Fri						
Sat						
Sun						
			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)			

K

Provision of facilities for entertainment of a similar description to that falling within I or J Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment facility you will be providing		
Day	Start	Finish	Will the entertainment facility be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)	Indoors	
Mon				Outdoors	
				Both	
Tue			Please give further details here (please read guidance note 3)		
Wed			State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)		
Thur					
Fri					
Sat					
Sun			Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within I or J at different times to those listed in the column on the left, please list (please read guidance note 5)		

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)		Indoors	
Day	Start	Finish			Outdoors	
Mon	23:00	02:30			Both	<input checked="" type="checkbox"/>
Tue	23:00	02:30			Please give further details here (please read guidance note 3)	
Wed	23:00	02:30	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Thur	23:00	02:30	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 5)			
Fri	23:00	02:30				
Sat	23:00	02:30				
Sun	23:00	02:30				

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the sale of alcohol be for consumption please tick <input checked="" type="checkbox"/> (please read guidance note 7)	On the premises		
				Off the premises		
Day	Start	Finish		Both		
Mon			State any seasonal variations for the supply of alcohol (please read guidance note 4)			
Tue						
Wed						
Thur				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 5)		
Fri						
Sat						
Sun						

N

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 8)

0

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	23:00	02:30	Non standard timings. Where you intend to use 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 5)
Tue	23:00	02:30	
Wed	23:00	02:30	
Thur	23:00	02:30	
Fri	23:00	02:30	
Sat	23:00	02:30	
Sun	23:00	02:30	

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 Yes

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

Premises Licence holder will hand deliver to Council Offices: FAO Andrew Cooper

P 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 9)

None are required

b) The prevention of crime and disorder

None are required

c) Public safety

None are required

d) The prevention of public nuisance

None are required

e) The protection of children from harm

None are required

Please tick Yes

- I have made or enclosed payment of the fee
- 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 CONVICTION TO A FINE UP TO 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 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature 

Date 12/11/2009

Capacity Solicitors for the Applicant

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). 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 13) Freeth Cartwright LLP One Colton Square	
Post town Leicester	Post code LE1 1QH
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	



Ashby de la Zouch Civic Society

69 Leicester Road
Ashby de la Zouch
Leicestershire
LE65 1DD
17th November 2008

Licencing
North West Leicestershire District Council
Council Offices
Coalville
Leicestershire
LE67 3FJ

Licencing Application REF: 78 Market Street Ashby de la Zouch

The following views are made on behalf of over 100 members of the Ashby de la Zouch Civic Society.

As you are aware there is an ongoing problem of late night crime and disorder, public nuisance and violence in Ashby de la Zouch town Centre.

This has been contained by the imposition of a special saturation policy for the Town Centre.

We wholeheartedly support this policy which would normally refuse all new licences.

NWLDC council is currently consulting on the residents attitudes to takeaways in Ashby. The civic society has recently run a survey amongst its members and 96% of respondents suggested that takeaways should close no later than 11.00pm.

It is only 12 months since the applicant requested an initial license for these premises which was granted until 1.00pm. There is no significant change in circumstances since that decision which lead to a decision to extend trading hours. In fact since that time the town council has adopted a policy of opposing late night licenses.

I would also point out that this premises is constrained by a planning condition not to trade after 11.00pm. This condition has not been respected although it takes precedence over the license. Despite numerous requests to the planning enforcement officers, no enforcement has been served on the applicant.

We would conclude on the information available that there is no justification, especially in light of the saturation policy and planning condition to allow this licence application.

The authority seeks to achieve a balance between leisure and entertainment and the needs of local residents. The key licensing objective of late night refreshment is the prevention of crime, disorder and public nuisance.

A late night licence extension for these premises will encourage disorder and anti-social behaviour by concentrating crowds of young people exiting different local public houses in and around the premises.

Experience of Ashby shows that, when young people having consumed alcohol in different pubs, meet in the street, there occurs threatening behaviour, violence and damage to property. These premises would be a focus for these people.

There are several residential, over shop flats and residential houses in this area who would be subject to disturbance and the trading hours allowed should reflect this. The impact on residents in the vicinity of a late licence and people entering and leaving the premises would be disproportionate and unreasonable.

The cumulative effects of litter will cause a public nuisance. Spilt and discarded food by drunken customers would be a health and slippage hazard to pedestrians.

We are of a mind to understand the public benefit of such an establishment in offering a "chill out" facility and service to late night visitors to the town centre. However on balance we feel that an extension until 2.30am would cause unreasonable public nuisance and encourage crime and disorder. We would remind the Authority that a recent application by Subway was restricted to a 1.00am closure and imposed street clean-up requirements.

We therefore request that this late licence application is refused.

Yours sincerely

C. Tandy
Vice Chairman Ashby Civic Society
.cc Ashby Town Council