

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – 16 JANUARY 2012

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| Title of report | APPLICATION FOR VARIATION OF A PREMISES LICENCE |
| Contacts | <p>Councillor Alison Smith 01530 835638 alison.smith@nwleicestershire.gov.uk</p> <p>Environmental Health Team Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 454596 andy.cooper@nwleicestershire.gov.uk</p> |
| Purpose of report | <p>To determine an application for variation of a premises licence in respect of premises, The Continental Music Bar and Club, 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.</p> |
| Council's Priorities | Safer and Healthier District |
| <p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant Corporate Action Team</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>Business 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 already undertaken, issues identified actioned.</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> |

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| 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 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. A copy of the premises licence and conditions 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 the variation of premises licence was received from Nathan Wesley Brown on the 28th November 2011. A copy of the application is attached as **Appendix 3**.
- 1.4 The variation of the premises licence is detailed as follows:

Live music and Provision of facilities for dancing:

Monday to Wednesday – 09:00hrs until 00:00hrs

Thursday – 09:00hrs until 02:00hrs the following morning

Friday and Saturdays – 09:00hrs until 03:00hrs the following morning

Sundays 12:00hrs until 00:00hrs

Easter Monday, May Day Bank Holiday and August Bank Holiday 00:00hrs until 02:00hrs the following morning.

Recorded music:

Monday to Wednesday – 10:00hrs until 00:30hrs the following morning

Thursday – 10:00hrs until 02:30hrs the following morning

Friday and Saturdays – 10:00hrs until 03:30hrs the following morning

Sundays 10:00hrs until 00:30hrs the following morning

Easter Monday, May Day Bank Holiday, Spring Bank Holiday and August Bank Holiday Monday 00:00hrs until 02:00hrs the following morning.

Performance of dance, Anything of a similar description to live music, recorded music or performances of dance, Provision of facilities for making music and Provision of facilities for entertainment of a similar description to dancing:

Monday to Wednesday – 09:00hrs until 00:00hrs

Thursday to Saturdays – 09:00hrs until 02:00hrs the following morning

Sundays 12:00hrs until 00:00hrs.

Late night refreshment:

Monday to Wednesday – 23:00hrs until 00:30hrs the following morning

Thursday – 23:00hrs until 02:30hrs the following morning

Friday and Saturdays – 23:00hrs until 03:30hrs the following morning

Sundays 23:00hrs until 00:30hrs the following morning

Easter Monday, May Day Bank Holiday, Spring Bank Holiday and August Bank Holiday
00:00hrs until 02:00hrs the following morning.

Sale of alcohol:

Monday to Wednesday – 10:00hrs until 00:00hrs the following morning

Thursday – 10:00hrs until 02:00hrs the following morning

Friday and Saturdays – 10:00hrs until 03:00hrs the following morning

Sundays 10:00hrs until 00:00hrs the following morning

Easter Monday, May Day Bank Holiday, Spring Bank Holiday and August Bank Holiday
00:00hrs until 02:00hrs the following morning.

Hours premises are open to public:

Monday to Wednesday – 10:00hrs until 00:30hrs the following morning

Thursday – 10:00hrs until 02:30hrs the following morning

Friday and Saturdays – 10:00hrs until 03:30hrs the following morning

Sundays 10:00hrs until 00:30hrs the following morning

Easter Monday, May Day Bank Holiday, Spring Bank Holiday and August Bank Holiday
Monday 00:00hrs until 02:00hrs the following morning.

- 1.5 The applicant has identified that conditions 1 to 6 and 9 to 115 could be removed as a consequence of the proposed variation.
- 1.6 The applicant has specified steps they intend to take in order to promote the four licensing objectives.

General – All four licensing objectives:

- In addition to the normal management arrangements the applicant has installed a digital CCTV system internally and externally and will be able to provide data from it to the Licensing Officers or Police.

2.0 Representations

- 2.1 In respect of an application to vary, 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 9th December 2011 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.

- 2.3 A representation has been received from Leicestershire Constabulary on the grounds of crime and disorder, public safety and public nuisance. A copy of the representation is attached as **Appendix 4**.
- 2.4 A representation has also been received from the District Council's Environmental Protection section on the grounds of prevention of public nuisance. A copy of the representation is attached as Appendix 5.
- 2.5 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. Eight representations have been received from interested parties based on crime and disorder, public safety, and the prevention of public nuisance. One interested party has requested that their name and address details are removed from this report. Officers can confirm that the representation has been made by an interested party living within the vicinity of the premises. Copies of the representations are attached as **Appendices 6 to 13**.

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 merits and those that are unlikely to contribute to the cumulative impact problems may 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, 2.41 to 2.51, 8.5 to 8.11, 8.28 to 8.32, 8.33 to 8.38, and 13.40 to 13.41. 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 to 2.11, 3.1 to 3.10, 4.1 to 4.3, 5.1 to 5.3, 6.1, 6.2, 7.1, 7.2, 8.1 to 8.4, 9.1 to 9.3, 10.1 to 10.5, 10.8, 13.1 to 13.2, and 17.1 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) Modify the conditions of the licence, by altering or omitting or adding to them.
- c) Reject the whole or part of the application.

6.3 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.