

**North Hertfordshire District Council
Licensing Act 2003
Decision Notice**

Date of Hearing	Monday 21 August 2006
Members of Panel	J.Cunningham, L Kercher and Paul Clark

Applicant(s) Name	Ashwell Pub & Restaurant Co Ltd
Premises Address	The Bushel & Strike, Mill Street, Ashwell, Herts, SG7 5LY
Date of Application	19 June 2006
APPLICATION FOR VARIATION	<p>This is an application for variation of a Premises Licence under Section 34 of the Licensing Act 2003.</p> <p>The Sub-Committee have read the material presented to us and have listened to all the evidence and submissions. The Sub-Committee has considered the National Guidance and the Statement of Licensing Policy and has come to the following decision:</p> <p>The application is <u>approved</u> and the licence is varied as set out below (subject to modified conditions).</p> <p>1. <u>OPENING HOURS</u></p> <p>The varied permitted opening hours are:</p> <p>Sunday to Thursday 1000 – 23:30 Friday & Saturday 1000 – 0100 the following morning</p> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none">• PART B – Films (Indoors)• PART E – Live Music (Indoors)• PART F – Recorded Music (Indoors)• PART G – Performance of dance (Indoors)• PART H – Entertainment similar to Music or Dance (Indoors)• PART I – Provision of Facilities for Making Music (Indoors)• PART J - Dancing (Indoors)• PART L – Late Night Refreshment (Indoors)• PART M - Supply of alcohol <p>The hours during which the licensable activities may take place are:</p>

	<p>Regulated Entertainment: PART B, PART E, PART F, PART H, PART I, PART J AND PART L – will be permitted under the terms of this varied licence for the following hours:</p> <p>Sunday to Thursday 11.00 – 23.00 Friday & Saturday 11.00 – 00.30</p> <p>Regulated entertainment under Part G and Part K will be permitted under the terms of this varied licence for the following hours</p> <p>Monday to Saturday 1200 – 2300 Sunday 1630 – 2200</p> <p>PART M – SALE OF ALCOHOL</p> <p>The hours during which the sale of alcohol shall be permitted will be</p> <p>Sunday to Thursday 1000 – 2300 Friday and Saturday 1000 - 0030</p> <p>In addition, the hours permitted for regulated entertainment and the sale of alcohol shall be from the standard terminal hour on New Years Eve to the standard starting hour on New Years Day.</p>
<p>CONDITIONS PROPOSED BY APPLICANT</p>	<p>This licence will be subject to the conditions that are consistent with the terms offered by the applicant in order to promote the four licensing objectives set out in Part P of their application.</p> <ol style="list-style-type: none"> 1. During events where regulated entertainment is provided all doors and windows will be kept closed at all times, except to allow for egress and ingress and in the event of an emergency. 2. No entry or re-entry to the premises after 11pm by members of the public. 3. When the premises are used for regulated entertainment the licence holder or his/her representative shall conduct half hourly assessments of the noise at neighbouring residential properties and if noise is audible at the boundaries of those neighbouring properties the volume shall be reduced. 4. No drinks or glasses are to be taken out into the garden after 11.00 p.m. No drinking shall be permitted in the garden after 11.30 p.m.
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</p>	<p>The Sub-Committee has explained to the applicant the effect of failure to comply with any of the conditions attached to the licence or certificate is a criminal offence, which upon conviction, would result in a fine of up to £20,000 or up to six months imprisonment or both.</p>
<p>STATEMENT OF LICENSING POLICY</p>	<p>The Sub-Committee has taken into account the North Hertfordshire District Council's Statement of Licensing Policy in reaching their decision. They have found the following sections to be of particular</p>

relevance in reaching this decision.

4. Regulating Licensing

4.1 *Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters, which are within the control of the individual licence holders and others in possession of relevant authorisations.*

4.2 *Licensing law is not a mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises or event and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.*

4.3 *In addressing these matters the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.*

5. Licence Conditions

5.1 *The Council will tailor any conditions to the individual circumstances of the premises and events concerned and will seek to avoid attaching disproportionate and over burdensome conditions on licences.*

5.2 *Conditions will only be imposed when they are necessary for the promotion of the Licensing Objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.*

7. Licensing Hours

7.1 *The Council recognises that fixed and overly restrictive opening times can lead to peaks of disorder and disturbance on the streets due to large numbers of people leaving licensed premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. Longer licensing hours with regard to the sale of alcohol are an important factor in reducing these concentrations and the resulting crime and disorder.*

7.2 *The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.*

	<p>9. The Prevention of Public Nuisance</p> <p>9.1 <i>Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'Public Nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.</i></p> <p>10. Live Music, Dancing and Theatre</p> <p>10.1 <i>The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.</i></p> <p>10.2 <i>Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.</i></p> <p>10.3 <i>The Council will avoid any measure, which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.</i></p>
<p>RATIONALE FOR DECISION</p>	<p>The Sub-Committee has restricted the hours the premises is permitted to be open to the public and provide the licensable activities on the following grounds:</p> <ol style="list-style-type: none"> 1. The Sub-Committee has received relevant representations that there is currently 'noise' nuisance being caused to nearby residents by persons leaving the premises. 2. The Sub-Committee is satisfied that granting the longer hours on the terms sought would cause a public nuisance and that nuisance would be disproportionate and unreasonable on persons living in the vicinity. 3. Given the proximity of the premises to the nearby residents the Sub-Committee is not satisfied that any conditions can be imposed, additional to those offered by the applicant, which will prevent this nuisance. 4. The Sub-Committee considers that these restrictions on the opening hours and licensable activities to promote the licensing objective of the prevention of public nuisance.
<p>COMMENCEMENT DATE</p>	<p>This licence will come into effect from the date of this decision.</p>
<p>RIGHTS OF REVIEW</p>	<p>At any stage, following the grant of a premises licence, a responsible authority, such as the Police or an interested party, such as a resident living in the vicinity of the premises may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The review is a request for the Council to look at the existing licence and decide whether its conditions are adequate to meet the four licensing objectives defined under the Licensing Act 2003.</p>

