

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

Date of Hearing	Monday, 28 April 2008
Members of Panel	Councillors A. Bardett, J. Cunningham & M. Kirkland
Applicant(s) Name	Raymond Shakespeare-Smith
Premises Address	Walsworth Common, Woolgrove Road, Hitchin, Hertfordshire
Date of Application	7 <sup>th</sup> March 2008
<b>APPLICATION FOR GRANT</b>	<p>This is an application for a grant of a time specific Premises Licence under Section 17 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>1. The application is approved subject to the following conditions but the following licensable activities: the supply of alcohol is excluded from the scope of the licence. The reason for this exclusion is that the applicant stated at the hearing that the application for the sale of alcohol was made in error and that he had not intended to apply for this as part of his application.</p> <p><b>1. <u>OPENING HOURS</u></b></p> <p>The permitted opening hours are:</p> <p>Sunday, 18 May 2008                      1100hrs to 1700hrs</p> <p><b>2. <u>LICENSABLE ACTIVITIES</u></b></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none"> <li>• PART E – Live Music</li> <li>• PART F – Recorded Music</li> <li>• PART G – Performance of a Dance</li> <li>• PART H – Anything of a Similar Nature – Parts E, F or G</li> <li>• PART I – Provision of Facilities for Making Music</li> <li>• PART J – Provision of Facilities for Dancing</li> <li>• PART M - Supply of alcohol</li> </ul> <p>The hours during which the licensable activities may take place are:</p> <p><b>PART E – Live Music</b></p> <p>Sunday, 18 May 2008                      1100hrs to 1700hrs</p>

	<p><b>PART F – Recorded Music</b></p> <p>Sunday, 18 May 2008            1100hrs to 1700hrs</p> <p><b>PART G – Performance of a Dance</b></p> <p>Sunday, 18 May 2008            1100hrs to 1700hrs</p> <p><b>PART H – Anything of a Similar Nature – Parts E, F or G (Fun Fair rides, bouncy castle, stalls, motor vehicles displays, ferret racing, train rides, food stalls, etc.)</b></p> <p>Sunday, 18 May 2008            1100hrs to 1700hrs</p> <p><b>PART I – Provision of Facilities for Music Making</b></p> <p>Sunday, 18 May 2008            1100hrs to 1700hrs</p> <p><b>PART J – Provision of Facilities for Dancing</b></p> <p>Sunday, 18 May 2008            1100hrs to 1700hrs</p>
<p><b>CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES</b></p>	<p>The Sub-Committee recognises that conditions will <u>only</u> be imposed on a licence where conditions are necessary for the promotion of one of the four licensing objectives. The Sub-Committee will only impose conditions on a licence where relevant representations have been made and they consider that it is necessary to impose conditions as a result of these representations.</p> <p>The following condition is considered necessary by the Sub-Committee to promote the licensing objectives of the prevention of crime and disorder and public safety:</p> <p>The condition is:</p> <ol style="list-style-type: none"> <li>1. An event specific stewarding plan to be agreed with and submitted to Hertfordshire Constabulary by Friday 2<sup>nd</sup> May 2008. The agreed plan shall form part of the operating schedule.</li> </ol> <p>The following conditions are considered necessary by the Sub-Committee to promote the licensing objective of public safety:</p> <p>The conditions are:</p> <ol style="list-style-type: none"> <li>2. The only temporary structures to be erected are the 2 structures detailed in the documentation submitted to Building Control on 21 April 2008 and 25 April 2008 and attached hereto at Appendix B.</li> <li>3. The requisite ‘sign off’ certificates for the two structures to be erected, verifying that the structures are fit for purpose are completed by a suitably competent person and are available for inspection throughout the event.</li> </ol>

<p><b>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</b></p>	<p>The following conditions have been recommended by:</p> <p><b>Hertfordshire Constabulary</b></p> <p>1. A full and detailed security/stewarding plan must be submitted to Hertfordshire Constabulary 28 days before the event. This must be based on perceived risks, good practice guidance (eg. Home Office publication – “Event Safety Guide”) and given audience capacity. This plan must meet the satisfaction of the event planning department or the event does not take place.</p> <p>This condition is considered <u>unnecessary</u> to ensure the promotion of two of the four licensing objectives, namely the prevention of crime and disorder and public safety because Hertfordshire Constabulary stated at the hearing that in their view an <i>agreed</i> stewarding plan submitted by Friday 2<sup>nd</sup> May 2008 would address all their concerns. The Sub-Committee has considered all relevant information and guidance and is of the opinion that this condition is not necessary to ensure the promotion of the licensing objective, the protection of children from harm.</p> <p>2. A full child protection policy must be provided to responsible authorities at least four weeks before the event takes place. This should include as a minimum, policies for dealing with lost/found children, unaccompanied children, etc.</p> <p>This condition is considered <u>unnecessary</u> to ensure the promotion of one of the four licensing objectives, namely, the protection of children from harm because Hertfordshire Constabulary stated at the hearing that they had now been provided with sufficient information so that they no longer considered this condition necessary. The Sub-Committee has considered all relevant information and guidance and is of the opinion that this condition is not necessary to ensure the promotion of the licensing objective, the protection of children from harm.</p> <p><b>Building Control – North Hertfordshire District Council</b></p> <p>1. Full details must be provided of proposed marquees at least 28 days prior to the event, including the following:</p> <ul style="list-style-type: none"> <li>• Evidence of adequate fire retardency;</li> <li>• Provision of erection drawings, accompanied by calculations where appropriate;</li> <li>• Statement of limitations, including loading and wind speed;</li> <li>• Method of “signing off” of the structures as safe and fit for use;</li> <li>• Stand-by arrangements for contractors and provision for safety checks during the event period.</li> </ul> <p>This condition is considered <u>unnecessary</u> to ensure the promotion of one of the four licensing objectives, namely public safety. North</p>
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	<p>Hertfordshire Building Control stated at the hearing that they had now been provided with sufficient information so that they no longer considered this condition necessary and that their concerns were adequately met by the two conditions suggested at the hearing by Building Control and hereby imposed by the Committee. The Sub-Committee has considered all relevant information and guidance and is of the opinion that this condition is not necessary to ensure the promotion of the licensing objective, public safety.</p>
<p><b>CONDITIONS PROPOSED BY APPLICANT</b></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 and as offered as part of that application during the consultation process and for the avoidance of doubt attached as Appendix A hereto.</p>
<p><b>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</b></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><b>STATEMENT OF LICENSING POLICY</b></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 relevance in reaching this decision.</p> <p><b>4. Regulating Licensing</b></p> <p>4.1 <i>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.</i></p> <p>4.2 <i>The Council recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and, therefore, beyond the direct control of the licensee(s) or certificate holder(s) Beyond the vicinity of the premises, an individual who engages in anti-social behaviour is accountable under law in their own right. 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.</i></p> <p>4.3 <i>In addressing these matters the Council will primarily focus on the direct impact of the activities taking place on, or in the immediate vicinity of, the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.</i></p>

	<p>4.4 <i>The Council do not consider that the term “vicinity” can be generically defined and will consider it’s definition in the specific circumstances of each application. To be considered in the vicinity of a premises, an interested party must be able to demonstrate a causal link to activities on or in the immediate vicinity of the premises in relation to the licensing objectives. For example, an interested party may be able to hear music from the premises within their property or they may see patrons leaving the premises and causing a nuisance near their property.</i></p> <p>4.5 <i>The Council recognise that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those volunteered by the applicant as part of the operating schedule included in the application. In addition, there is no provision for a licensing authority itself to make representations. If no relevant representations are received in respect of an application, the licensing authority must issue the licence on the terms sought.</i></p> <p><b>5. Licence Conditions</b></p> <p>5.1 <i>The Council recognise that each application must be considered on it’s own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions must be avoided and will only be lawful where they are deemed necessary to promote the licensing objectives in response to relevant representations.</i></p> <p>5.2 <i>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.</i></p> <p>5.3 <i>Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council’s website at <a href="http://www.north-herts.gov.uk">www.north-herts.gov.uk</a>. The pool of model conditions relate to:</i></p> <ul style="list-style-type: none"> <li>• <i>the prevention of crime and disorder;</i></li> <li>• <i>public safety (including fire safety);</i></li> <li>• <i>the promotion of public safety in theatres, cinemas, concert halls and similar places;</i></li> </ul>
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	<ul style="list-style-type: none"> <li>• <i>the prevention of public nuisance; and</i></li> <li>• <i>the protection of children from harm.</i></li> </ul> <p>5.4 <i>Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.</i></p> <p><b>7. Licensing Hours</b></p> <p>7.1 <i>The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large numbers of customers were required to leave 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. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. The Council recognise that arbitrary restrictions would undermine the principle of flexibility and should be avoided. The licensing objectives will be the paramount consideration at all times.</i></p> <p>7.2. <i>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.</i></p> <p>7.3 <i>The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary. In addition, the Council recognise that zoning of licensing hours would undermine the principle of determining each application on it's own merits.</i></p> <p>7.4 <i>With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to the licensing objectives.</i></p> <p><b>8. Children and Licensed Premises</b></p> <p>8.1 <i>The Council recognises the diversity of premises that will be licensed under the Act. The premises will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away</i></p>
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	<p><i>shops, community halls and schools. The Council will not ordinarily seek to limit the access by children to any premises will not be limited unless it is considered necessary for the prevention of physical, moral or psychological harm to them.</i></p> <p><i>8.2 When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.</i></p> <p><i>8.3 Premises where concern for the protection of children may arise, include:</i></p> <ul style="list-style-type: none"> <li><i>• where entertainment of an adult or sexual nature are commonly provided;</i></li> <li><i>• where there is a strong element of gambling on the premises;</i></li> <li><i>• where there is a known association with drug taking or dealing;</i></li> <li><i>• where current staff members have been convicted for serving alcohol to minors;</i></li> <li><i>• where there is evidence of underage drinking; and</i></li> <li><i>• where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.</i></li> </ul> <p><i>8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:</i></p> <ul style="list-style-type: none"> <li><i>• a limit on the hours when children may be present;</i></li> <li><i>• a limitation or exclusion when certain activities are taking place;</i></li> <li><i>• the requirement to be accompanied by an adult;</i></li> <li><i>• limited access to parts of the premises; and</i></li> <li><i>• full exclusion of those people under 18 from the premises when any licensable activities are taking place.</i></li> </ul> <p><i>8.5 Any licensed premises used for film exhibitions will be subject to conditions restricting children from viewing age restricted films in accordance with recommendations given by the British Board of Film Classification. Where a BBFC classification does not exist, the Council will classify the film in accordance with BBFC guidelines.</i></p> <p><i>8.6 Conditions requiring the admission of children to premises cannot be attached to licences or certificates. Where no restriction or limitation is imposed the issue of access will remain a matter of discretion of the individual licensee or club or holder of a temporary event notice.</i></p> <p><i>8.7 The Council recognises the Hertfordshire Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm.</i></p> <p><i>8.8 The Council supports the Portman Group Code of Practice</i></p>
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on the naming, packaging and promotion of alcoholic drinks. Alcohol should be packaged and promoted in a socially responsible manner so as not to encourage drinking amongst those who are under 18 years old. A copy of the Code can be found at [www.portman-group.co.uk](http://www.portman-group.co.uk).

## **9. The Prevention of Public Nuisance**

9.1 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.

9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:

- sound proofing requirements;
- restrictions on times when music or other licensable activities may take place;
- technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- limiting the hours of regulated entertainment;
- limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters; or
- requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:

- effective and responsible management of the premises;
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
- management of arrangements for the collection and disposal of litter; and
- effective ventilation systems.

9.4 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. The Council are aware of the need to avoid unnecessary or disproportionate measures that could deter

	<p><i>valuable community activities such as live music. Conditions that are likely to be a significant financial burden will be avoided, where possible, for smaller venues.</i></p> <p>9.5 <i>The Council recognise that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. That said, the approach of the Council will be one of prevention and will consider each application on its own merits.</i></p> <p><b>10. Live Music, Dancing and Theatre</b></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>10.4 <i>The Council will seek to encourage cultural and community events by licensing its own public spaces. The following public spaces are currently licensed for regulated entertainment:</i></p> <p><i>Butts Close, Hitchin Howard Gardens, Letchworth Broadway Gardens, Letchworth</i></p>
<b>RATIONALE FOR DECISION</b>	The Sub-Committee considers that the conditions imposed are necessary for the promotion of two of the four licensing objectives namely, the prevention of crime and disorder and public safety.
<b>COMMENCEMENT DATE</b>	This licence will come into effect from the date of this decision.
<b>RIGHTS OF REVIEW</b>	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.