

EAST HERTS COUNCIL

LICENSING SUB-COMMITTEE – 10 SEPTEMBER 2018

REPORT BY JONATHAN GEALL – HEAD OF HOUSING AND HEALTH

APPLICATION FOR NEW PREMISE LICENCE FOR ACE OF LANES,
ANCHOR STREET, BISHOPS STORTFORD, HERTS, CM23 3BP

WARD(S) AFFECTED: – BISHOPS STORTFORD

Purpose/Summary of Report

An application for a new time limited premises licence under the Licensing Act 2003 has been received. Representations against the application have been received so the decision falls to a Sub-Committee of the Licensing Committee. This report is to inform that decision.

<u>RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE: That:</u>	
(A)	THE APPLICATION FOR A NEW TIME LIMITED PREMISES LICENCE BE DETERMINED

1.0 Background

1.1 Under the Licensing Act 2003 an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.

1.2 Where valid representations are received the Licensing Authority's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied Licences and Certificates. This decision must be

made whilst having regard to the Licensing Objectives, the Licensing Authority's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

1.3 The Licensing Objectives are:

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

1.4 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps available to the Sub-Committee are:

- grant the application;
- if considered appropriate for the promotion of the four licensing objectives, impose conditions;
- amend the application; or
- reject the whole or part of the application.

2.0 Report

2.1 The valid application submitted by Fraser Capital Investments Limited, was received by the licensing authority on 18th July 2018. The application was correctly advertised and consulted upon as required.

2.2 The application requests that a new premises licence be granted for a premises called "Ace of Lanes"

2.3 The original application did seek approval for a number of licensable activities as set out below:

Requested Activity	Requested Day	Requested Time	Location
Films	Sunday - Thursday	09:00 - 23:30	Indoors
Films	Friday - Saturday	09:00 - 01:00	Indoors

Films	Sunday preceding a Bank Holiday	09:00 – 01:00	Indoors
From the standard start time on 31 st December to the standard start time on 1 st January			
Indoor Sporting Events	Sunday – Thursday	09:00 – 23:30	Indoors
Indoor Sporting Events	Friday - Saturday	09:00 – 01:00	Indoors
Indoor Sporting Events	Sunday preceding a Bank Holiday	09:00 – 01:00	Indoors
From the standard start time on 31 st December to the standard start time on 1 st January			
Live Music	Sunday – Thursday	09:00 – 23:30	Indoors
	Friday - Saturday	09:00 – 01:00	
	Sunday preceding a Bank Holiday	09:00 – 01:00	
From the standard start time on 31 st December to the standard start time on 1 st January			
Recorded Music	Sunday – Thursday	09:00 – 23:30	Indoors
	Friday - Saturday	09:00 – 01:00	
	Sunday preceding a Bank Holiday	09:00 – 01:00	
From the standard start time on 31 st December to the standard start time on 1 st January			
Performances of dance	Sunday – Thursday	09:00 – 23:30	Indoors
	Friday - Saturday	09:00 – 01:00	
	Sunday preceding a Bank Holiday	09:00 – 01:00	
Late Night	Sunday – Thursday	23:00 – 23:30	Indoors

Refreshment	Friday - Saturday	23:00 – 01:00	
	Sunday preceding a Bank Holiday	23:00 – 01:00	
From the standard start time on 31 st December to the standard start time on 1 st January			
Supply of alcohol	Sunday – Thursday	09:00 – 23:30	Both on & off the premises
	Friday - Saturday	09:00 – 01:00	
	Sunday preceding a Bank Holiday	09:00 – 01:00	
From the standard start time on 31 st December to the standard start time on 1 st January			
Hours premises are open to the public	Sunday – Thursday	09:00 – 00:00	
	Friday - Saturday	09:00 – 01:30	
	Sunday preceding a Bank Holiday	09:00 – 01:30	
From the standard start time on 31 st December to the standard start time on 1 st January			

2.4 Since the application was made the applicant has amended the requested hours for all activities and closing on Friday and Saturday nights. The changes mean that on Friday and Saturday all licensable activities will cease at 23:45 and the premises will close to the public at midnight.

2.5 Part M of the application form asks the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the application. The applicant has stated a number of controls that will be put in place. These controls include the use of CCTV and the recordings of images being available to officers of the Responsible Authorities, the use of a “Challenge 21” as their age verification policy, No licensable activities shall be permitted to take place in the external area after 22:00 (modified from 22:30) A redacted copy of the application form and plans provided are attached as **Essential Reference Paper ‘B’**.

- 2.6 During the 28 day statutory public consultation period the application was varied and conditions agreed with Herts Police. These conditions include no disposal of glass bottles or refuse between 21:00 and 07:00, A4 white notices telling customers to “please respect our neighbours and leave the area quietly”, that on a Friday and Saturday no person under 18 is to be allowed to remain the bar area after 21:30 unless partaking in a table meal and accompanied by an adult. These agreed conditions are attached as **Essential Reference Paper ‘C’**
- 2.8 During the 28 day statutory public consultation period five valid representations were received by the Licensing Authority. Two representations have been withdrawn, following amendment to the application. The three remaining representations from interested parties are attached as **Essential Reference Paper ‘D’**.
- 2.9 These representations raise concerns that the noise from the premises in particular from the use of the outside area, may lead to disturbance and as such would undermine “The prevention of public nuisance” licensing objective.
- 3.0 Policy and Guidance
- 3.1 Section 4 of the East Herts Statement of Licensing Policy details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the policy the operation of Ace of lanes is predominately a bowling alley and as such does not fit precisely in to one category. The premises contains a bar / restaurant as part of bowling alley but it could equally fit within the definition of ‘Other Entertainment Venue.
- 3.2 As the premises does not fit into one category the table at 4.3 of the policy it is open to Members to decide where they believe the premises should sit. To aid Members in their

decision the applicant could be questioned to ensure that they have read and understood the Licensing Policy and to explain, in their opinion, which category the operation of the premises will fit into. As with all applications it must be considered on its own merits and Members can grant the hours which they believe appropriate.

- 3.3 Section 9 of the East Herts Statement of Licensing policy relates to the prevention of public nuisance. Specifically section 9.3 of the policy states “The Licensing Authority will expect applicants to demonstrate they have considered:
- (1) the proximity of residential accommodation;
 - (2) the type of use proposed, and the likely numbers of customers;
 - (3) proposed hours of operation and the frequency of activity;
 - (4) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - (5) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 10 p.m. and 7 a.m. than at other times of the day;
 - (6) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
 - (7) the steps taken or proposed to be taken by the applicant to help ensure patrons and staff leave the premises quietly;
 - (8) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
 - (9) the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
 - (10) the level of likely disturbance from associated vehicle movements;

- (11) the use of smoking shelters, gardens and other open-air areas;
- (12) the location of delivery and collection areas and delivery/collection times;
- (13) the appropriate placing of external lighting, including security lighting;
- (14) refuse storage and litter (including fly posters and illegal placards);
- (15) the history of nuisance complaints against the premises, particularly where statutory notices have been served on the present licensees;
- (16) the applicant's past success in controlling anti-social behaviour and preventing nuisance;
- (17) odour nuisance, e.g. cooking smells;
- (18) any other relevant activity likely to give rise to nuisance;
- (19) any representations made by the Police, or other relevant agency or representative;
- (20) This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits."

3.4 Paragraph 9.37 and 9.38 of the revised Guidance issued under section 182 of the Licensing Act 2003 states:

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

3.5 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate

weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Revised Guidance issued under section 182 of the Licensing Act 2003 ; and
- its own statement of licensing policy.

3.6 Paragraphs 9.42-9.44 deal with how to determine actions that are appropriate for the promotion of the licensing objectives.

3.7 If Members are minded to impose conditions to mitigate concerns regarding the undermining of the licensing objectives then Chapter 10 of the guidance deals with conditions attached to premises licences. Paragraphs 10.8-10.10, 10.13-10.15 would be particularly relevant.

4.0 Officer observations

4.1 The main causes for concern are identified by the interested parties as the use of the external area and the impact this may have on residential flats the other side of the river. One representation goes wider than this and touches on the noise in general.

4.2 As detailed earlier in the report the applicant has reduced the hours of operation on a Friday and Saturday night since making their application to close at Midnight.

4.3 The applicant has reduced the requested times for the supply of alcohol to the external area to 22:00 although this does not close the area to be used for non-licensable activity.

4.4 As stated in the Guidance the authority's decision should be evidence based, justified as being appropriate for the

promotion of the licensing objective's and proportionate to what it is intended to achieve.

- 4.5 Members should consider if they believe the applicant has provided evidence that the proposed application would promote and not undermine the licensing objective of the Prevention of Public Nuisance. This evidence should be balanced against the evidence given by those making representations that the licensing objective would be undermined.
- 4.6 If Members believe that there is evidence that the granting of the licence would not promote the licensing objectives then it is within their remit to take the action they believe is appropriate and proportionate to address their concerns. Members can attach conditions or take any steps they believe appropriate to promote the licensing objectives including: limiting the hours for licensable activities or even refusing the application in its entirety.
- 4.7 If Members believe that the granting of the application as applied for would not undermine the licensing objective of Prevention of Public Nuisance then the application should be granted in full.
- 4.8 Put in its simplest terms, if Members believe that the licensing objective would be undermined, what are the minimum measures that can be put in place to address the concerns? Refusal of the application should be the last option considered.
- 4.9 In considering additional conditions Members should decide whether these steps would in fact address their concerns if the decision was made to grant hours beyond those within the policy?

- 4.10 If the imposition of conditions is not considered adequate to address Members concerns then the next step to consider is limiting the hours for licensable activities or even opening.
- 4.11 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence Members have relied upon when reaching their decision.

5.0 Implications/Consultations

- 5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

East Herts Statement of Licensing Policy 2016 -

<https://www.eastherts.gov.uk/article/35119/Licensing-Policy>

Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

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