

Report of	Meeting	Date
Director of Legal Services	Statutory Licensing Sub-Committee	23 September 2005

## **APPLICATION TO VARY PREMISES LICENCE IN RESPECT OF THE HARTWOOD HALL HOTEL, PRESTON ROAD, CHORLEY**

### **PURPOSE OF REPORT**

1. For members to determine an application for the variation of a premises licence.

### **CORPORATE PRIORITIES**

2. There are no specific implications for corporate priorities arising from this report.

### **RISK ISSUES**

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

Strategy		Information	
Reputation		Regulatory/Legal	✓
Financial		Operational	
People		Other	

4. There is a right of appeal to the Magistrates Court by the applicant in respect of a decision to refuse to vary the premises licence or where the conditions of licence are modified. There is also the right of appeal to the Magistrates Court by a person who has made relevant representations against a decision to grant the variation or to modify the conditions of licence.

### **CURRENT PREMISES LICENCE**

5. The premises licence was converted under the grandfather provisions. The current licensable activities are as follows:

supply of alcohol by retail (On-Licence)

Monday – Saturday	11.00 – 23.00
Sunday and Good Friday	12.00 – 22.30
Christmas Day	12.00 – 1500 and 1900 – 22.30

Current embedded conditions and restrictions to be converted

#### Alcohol

The provisions of Sections 59-61 inclusive and Section 63 of the Licensing Act 1964 apply (drinking up time).

#### Late Night Refreshment



Food may be sold in line with the alcohol sales plus an extra 30 minutes.

### Recorded Music

Recorded music may be played throughout the premises without limitation in line with the provisions of the Licensing Act 1964.

A Supper Hours certificate is also in force.

A Children's certificate is also in force.

## **THE APPLICATION**

6. A copy of the application to variation is attached to this report in full in Appendix 1. In summary the application is to conduct the following licensable activities and at the times set out below.

7. Provision of regulated entertainment

i) Live Music – Indoors

07.00 – 01.00 Monday – Sunday

Limited to a maximum of two performers, as currently permitted under Section 182 of the Licensing Act 1964, and to entertainment at bona fide private events as currently permitted at the premises.

On St David's Day, St Patrick's Day, St Georges Day and St Andrew's Day, the finishing time will be extended by one hour, with seven days notice and agreement with the Police.

Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police.

ii) Recorded Music – Indoors

07.00 – 01.00 Monday – Sunday

The playing of all descriptions of amplified recorded music as permitted under the existing licence(s). Variation applies to hours of operation only.

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12

per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police.

- iii) Anything of a similar description to that falling with e, f or g – Indoors

Live entertainment as permitted under the existing licence(s), and karaoke.

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

#### Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police.

- iv) Provision of facilities for dancing – Indoors

07.00 – 01.00 Monday – Sunday

As currently permitted at the premises, including at bona fide private events.

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

#### Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police.

### 8. Late Night Refreshment – Indoors

23.00 – 02.00 Monday – Sunday

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

#### Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police.

9. Supply of Alcohol – Both on and off the premises

07.00 – 01.00

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police

There are no restrictions on the hours during which alcohol maybe sold to residents and their bona fide guests (notwithstanding the fact that residents may be sleeping in a separate annexe).

10. Hours Premises are open to the Public

06.00 – 02.00 Monday – Sunday

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the Police.

Non Standard Timings

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for the Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local or national or international significance or for charitable events, limited to 12 per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the Police

Notwithstanding these usual opening times, the premises, in accordance with the converted right may chose to open to the public at any time for non licensable activities/purposes.

**ADDITIONAL STEPS TO BE TAKEN TO PROMOTE LICENSING OBJECTIVES**

11. The applicant has indicated that the following additional steps will be taken to promote the licensing objectives:

General

We have applied for an extended period between the cessation of the supply of alcohol and the closure of the premises to give us the option to allow for a more gradual dispersal of customers, the style and operation of pub will not differ significantly during the extended hours. Where this is appropriate, non-alcoholic refreshment will be available in the extended period.

The premises will respect Spirit Group's approach to responsible drinking (copy with the application). Our policies change at regular intervals to reflect current trends and it would be inappropriate to standardise them on a permanent basis. The enclosed policy is

included for information only and not as suggested conditions or to form part of any other Operating Schedule.

#### Prevention of Crime and Disorder

We are introducing Security Industry Authority (SIA) approved door supervisors across our estate, in line with the Government approved implementation plan.

A zero tolerance towards illegal drugs will be enforced at all times.

If a DJ is used on any night then he/she will ask customers to leave quietly.

If a CCTV system is installed at this site, it will continue to operate during the additional hours of trading and notices will be displayed.

All instances of crime and disorder will be reported to the Police and will be kept in an incident logbook.

#### Public Safety

Public safety is integral to the way that the Spirit Group runs its business and is reviewed regularly through our health and safety policy. This policy is fully briefed and trained to all management and staff and we will continue to train our staff to the standards required by relevant legislation.

Free drinking water will be available at all times.

#### The Prevention of Public Nuisance

Additional patrols will take place by members of staff internally and externally, to limit any noise pollution when entertainment is being offered within the premises.

If appropriate, notices will be displayed asking our customers to respect our neighbours when leaving the premises.

Where already used text/radio pagers will continue to be used for the additional hours of trading and will be monitored by a responsible member of staff.

Soft drinks and non-alcoholic refreshment will be available if we decide to use the option to stay open for an extended period the cessation of the supply of alcohol and the closure of the premises (see above under general).

#### The Protection of Children from Harm

When children are allowed upon the premises, any entertainment offered within the premises will be suitable for young persons.

Children will be required to be supervised by the accompanying adult at all times.

A no smoking area will be provided.

Soft drinks and non-alcoholic drinks will be available.

A recognised proof of age policy will be enforced.

#### Other activities that may give rise to concern in respect of children

None.

### Conditions/Restrictions to be removed on variation

To remove the restrictions and effects of Section 168, 168A and 171 of the Licensing Act 1964 to as to allow the provisions under the Licensing Act 2003 to apply in relation to children.

To remove the restrictions on consumption of alcohol as set out in Section 63(1) of the Licensing Act 1964 (drinking up time).

To remove restrictions on credit sales in place by Section 166 of the Licensing Act 1964.

To extend the terminal hour at the premises in respect of the sale of alcohol and other licensable activities.

To allow limited entertainment in line with current provisions of Section 182 of the Licensing Act 1964.

### Relevant Representations – Responsible Authorities

There are no relevant representations.

### Relevant Representations – Interested Parties

There are **five** representations received to the application to vary from interested parties who reside close to the premises. The objections are relevant to the following licensing objectives:

Prevention of Public Nuisance  
Prevention of Crime and Disorder

Copies of the representations in full are attached to the report.

## **POLICY CONSIDERATIONS**

12. Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under Section 182 of the Act.

As Members will be aware the four licensing objectives are as follows:

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

The Licensing Act 2003 provides that where relevant representations are received the Licensing Authority must hold a hearing to consider them unless the parties agree that a hearing is unnecessary.

The Licensing Authority in determining the application, having had regard to the representations, may take the following steps it considers necessary for the promotion of the licensing objectives.

- i) reject the application in whole or in part
- ii) modify the conditions.

Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member's attention is drawn to the following paragraphs:

- 1.3 The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing. However, each application will be considered separately, on its individual merits.
- 1.4 The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.
- 1.5 This Policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.
- 2.2 Each of the licensing objectives are of equal importance with these objectives.
- 2.3 Each of the licensing objectives is of equal importance for the purposes of this Policy.
- 2.4 This Policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.
- 2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.
- 2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.
- 5.3 The Policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be necessary in more densely populated areas. The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

## **CRIME AND DISORDER**

- 6.1 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems.
- 6.2 The Council is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act 1998 and the Community Safety Strategy. Statistics from the Community Safety Partnership

regarding Crime and Disorder in the Licensing Authority area are given in Appendix 4.

- 6.3 The Community Safety Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol and provide reports to the Licensing Authority where appropriate. The Licensing Authority will give due consideration to any submissions made concerning the impact on crime and disorder of alcohol related problems. The Council may review this Policy where it considers it appropriate to do so.
- 6.4 The Council will have particular regard to the likely impact on licensing of related crime and disorder in the Borough particularly when considering the location, impact and the operation and management of all proposed licensed premises and applications for variations.
- 6.5 The promotion of the crime and disorder-licensing objective, places a responsibility on licence holders to try and achieve this objective. Applicants will therefore be required to address, in their operating schedules, where appropriate, those measures that have been identified and will be implemented and/or maintained to reduce or prevent crime and disorder in the vicinity of their premises. The Licensing Authority considers that best practice will be exemplified by the night safe initiative and would recommend that licence holders join this initiative.
- 6.6 Where relevant representations are received on the crime and disorder objective, the Licensing Authority may have regard to the following where relevant: (though this is not an exhaustive list);
- crime prevention measures
  - physical security features installed in the premises, (this may include CCTV both inside and outside the premises, where alcohol is stored in relation to off licences, the use of toughened drinking glasses)
  - weapon detection and search facilities
  - procedures for risk assessing promotions and events such as ‘happy hours’, drinks promotions, for the potential to cause crime and disorder, and the plans to minimising such risks
  - adoption of best practice guidance in relation to safer clubbing guide
  - measures to prevent the use or supply of illegal drugs including search and entry policies
  - employment of licensed door supervisors
  - participation in other appropriate schemes eg pub watch scheme
  - measures to be taken for the prevention of violence or disorder.
- 6.7 The Licensing Authority where relevant representations are made, will consider attaching conditions to deter and prevent crime and disorder, if appropriate and necessary and these may include conditions from the model pool of conditions at Appendix 3. Certain premises may be required to install a CCTV system to an evidential standard should the Council be satisfied it is necessary and/or appropriate to meet the licensing objectives.
- 6.8 The Council reserves its right to use its powers to designate areas where alcohol may not be consumed in a public place to meet the Public Safety and Crime and Disorder objectives.



## LICENSING HOURS

- 7.1 The Policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.
- 7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the Policy and restrictions on trading hours will be considered only where necessary to meet the licensing objectives.
- 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, but each premises will be considered on its individual merits.
- 7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence will in all cases be dependent on the impact of an activity in relation to the licensing objectives.
- 7.6 Where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non exhaustive list);
- the nature of the area where the premises are located (eg commercial residential)
  - arrangements to ensure adequate availability of taxis and private hire vehicles, public transport
  - whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents
  - whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact
  - in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,

- the type and scale of activity, the number and nature of clientele likely to attend
- the levels of noise from the premises, which may be acceptable later in the evening
- the proposed hours of operation
- the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxis
- the means of access to the premises eg whether on principal pedestrian routes
- the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic
- the cumulative impact of licensed premises in an area and scope for mitigation
- frequency of the activity.

Operating Schedules to set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred to paragraph 6.6.

## PREVENTION OF PUBLIC NUISANCE

- 13.1 Licensed premises have significant potential to adversely impact on communities through public nuisances arising from their operation.
- 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti-social behaviour where these matters impact on those living or working in an area.
- 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.
- 13.5 The Policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.
- 13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following
  - the location of the premises (in particular proximity to residential and other noise sensitive premises, eg hospitals, nursing homes, hospices and places of worship)
  - the type of activities, the number and nature of clientele likely to attend at the time of the application
  - the proposed hours of operation
  - levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
  - means of access to premises (whether on principal pedestrian routes)
  - the level of car parking demand on any surrounding residential streets and its effect on local residents
  - the cumulative impact on licensed premises in an area
  - the scope for mitigating an impact ie CCTV, door supervisors
  - the frequency of an activity
  - the design and layout of the premises
  - measures taken or proposed to be taken to prevent noise or vibration escaping from the premises eg sound proofing, air conditioning and sound limitation devices
  - measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc
  - measures taken to lessen the impact of parking in the vicinity

- control of operating hours for all or parts of the premises (eg gardens, last admission times and 'wind down' periods)
  - measures to be taken to prevent drunkenness on the premises
  - measures to ensure collection and disposal of litter and waste outside their premises.
- 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.
- 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions – see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.
- 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.
- 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).
- 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from a premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime and Disorder Act 1998.

## **HUMAN RIGHTS ACT IMPLICATIONS**

13. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights;
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and family life;
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

**ASSOCIATED PAPERS**

- 14. Application form and relevant representation.

ROSEMARY LYON  
DIRECTOR OF LEGAL SERVICES

There are no background papers to this report.

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Howard Bee	5665	September 2005	LEGREP/90353JM2