



# East Northamptonshire Council

## Licensing Panel - 21 December 2009

### Application to Vary the Premises Licence - The Axe and Compass, Carlow Road, Ringstead.

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#### Summary

Application to vary the Premises Licence at the Axe and Compass by extending the permitted hours for sale of alcohol, including music and entertainment facilities.

#### Attachment(s)

- Appendix 1 - Application Form
  - Appendix 2 - Map of Area
  - Appendix 3 - Premises Licence
  - Appendix 4 - Representations
  - Appendix 5 - Conditions agreed by Environmental Protection
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#### 1.0 Summary

- 1.1 An application has been received to vary the Premises Licence at the Axe and Compass, Carlow Road, Ringstead. A Blue Notice was displayed on the premises for the statutory period and an advert placed in the Evening Telegraph outlining the application and inviting representations.

#### 2.0 Application to Vary the Premises Licence

- 2.1 The application seeks to extend permitted hours for sale of alcohol; to add live and recorded music; anything similar to live/recorded music; making music; dancing and anything similar to these to the list of regulated entertainment. The timings being requested are: -

(i) Sale of alcohol - 11:00 to 00:00 (Monday to Thursday); 11:00 to 01:00 (Friday and Saturday); and 12:00 to 23:30 (Sunday). Non standard timings - 7 November extra two hours at end of day; 4 December extra two hours at end of day; Friday, Saturday, Sunday and Monday every Bank Holiday an extra hour at end of day; Christmas Eve an extra hour at end of day; and New Years Eve an extra 4 hours at end of day.

(ii) Live Music (indoors only) - 18:00 to 23:00 (Monday to Thursday); 18:00 to 00:00 (Friday and Saturday); and 18:00 to 23:00 (Sunday).

(iii) Recorded Music - 12:00 to 23:30 (Monday to Thursday); 12:00 to 00:00 (Friday and Saturday); and 12:00 to 23:00 (Sunday). Christmas Eve an extra 2 hours at end of day; and New Years Eve an extra 4 hours at end of day.

(iv) Anything similar to above and facilities for making music/dancing - 18:00 to 23:00 (Sunday to Thursday); and 18:00 to 00:00 (Friday and Saturday). Christmas Eve an extra 2 hours at end of day; and New Years Eve an extra 4 hours at end of day.

(v) Late Night Refreshment - 23:00 to 23:30 (Monday to Thursday); and 23:00 to 00:00 (Friday and Saturday).

#### 3.0 Consultations

- 3.1 The following consultations have been undertaken and representations received:

Police	None
Child Protection	None
Fire	None
Trading Standards	None

Revenue and Customs	None
Parish Council	Representation
Environmental Health	Withdrawn because conditions agreed
Public	Representation

- 3.2 The representation from the Parish Council has been analysed and an extract placed under the relevant Licensing Objective. (The full representation is at Appendix 4).

Public Nuisance

“The Parish Council feels that no licence should extend beyond midnight... The Public House is close to many residences...”

- 3.3 The representation from Environmental Protection has been withdrawn and the conditions agreed with the owners are included at Appendix 5.

- 3.4 The representation from one member of the public has been analysed and an extract placed under the relevant Licensing Objective. (The full representation is at Appendix 4.)

“...will inevitably attract a different client group... potential to cause public nuisance”.

**4.0 Determination**

- 4.1 The Panel must carry out its functions to promote the Licensing Objectives having regard to:

- Licensing Policy
- Section 182 Guidance

- 4.2 The Licensing Act states that, following a Hearing, the Panel may take the following actions if they deem them necessary to promote the licensing objectives:

- Grant subject to operating schedule and mandatory conditions only
- Grant subject to further conditions necessary for the promotion of the licensing objectives
- Exclude a licensable activity
- Reject the application

**5.0 Policy Considerations**

- 5.1 This section highlights the elements of the licensing policy that are most relevant with respect to this application. This is not exhaustive and the policy should be considered fully prior to making decisions with respect to applications: -

2.13 – In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions relevant to the operating plan will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are necessary, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. Health and Safety at Work and Fire Safety legislation

5.0 Licensing Hours – relates to higher standards being included within an operating schedule to address licensing objectives, the need to consider the adequacy of measures proposed to deal with nuisance and /or public disorder and demand stricter conditions with regard noise control near denser residential accommodation.

9.0 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates. However to ensure consistency, when it is necessary to apply conditions, the Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may

be drawn in particular circumstances to suit individual cases. (Pages 148 – 170 of section 182 Guidance).

15.0 Noise – applicants will be required to demonstrate the measures they have in place to prevent unnecessary noise and disturbance to local residents.

## **6.0 Section 182 Guidance Considerations**

This section highlights the elements of Section 182 Licensing Guidance that are most relevant with respect to this application. This is not exhaustive and guidance should be considered fully prior to making decisions with respect to applications.

### **6.1 Committee Consideration**

Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case (para 1.15).

As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or interested party 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 (para 9.24).

### **6.2 Control of Licensee**

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 individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within their control (para 1.26).

### **6.3 Conditions**

Under former licensing regimes, the courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or (para 10.4).

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues. For example, charities, community groups, voluntary groups, churches, schools and hospitals which host smaller events and festivals will not usually be pursuing these events commercially with a view to profit and will inevitably operate within limited resources (para 10.13).

### **6.4 Opening Hours**

In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of

nuisance and disorder may arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises (para 10.19).

However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested (para 10.20).

## 7.0 Invitation to Determine

7.1 The Panel is asked to consider the information detailed above and determine whether the request to vary the Premises Licence should be agreed.

<b>Implications:</b>	
<b>Corporate Outcomes or Other Policy/Priority/Strategy</b>	
Good Quality of Life	<input checked="" type="checkbox"/> Good Reputation <input type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/> Strong Community Leadership <input type="checkbox"/>
Effective Management	<input type="checkbox"/> Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input type="checkbox"/>
<b>Other:</b>	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval <input type="checkbox"/>	
<b>Financial</b>	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
<b>Risk Management</b>	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - <input type="checkbox"/> residual risk score - <input type="checkbox"/>
<b>Staff</b>	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
<b>Equalities and Human Rights</b>	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
<b>Legal</b>	Power: Licensing Act 2003
	Other considerations: Section 182 Guidance
<b>Background Papers:</b>	
<b>Person Originating Report:</b> Tom Morrissey Licensing Enforcement Officer 01832742241 tmorrissey@east-northamptonshire.gov.uk	
<b>Date: 9 December 2009</b>	
<b>CFO</b>	<b>MO</b>
	<b>CX</b>

(Committee Report Normal Rev. 19)