Part 1 – Summary of determination

Type of application: Variation to a Premises Licence

Decision in respect of: Commercial Inn, 62 Commercial Street, Morley, Leeds, LS27 8AG

Licence Reference Number: PREM/00394/VO2

Date(s) of hearing: 7th September 2009

Date of Determination: 7th September 2009

Options considered by Members

The licensing sub committee could take such of the following steps as it considered necessary for the promotion of the licensing objectives:

a. Grant the application as requested

b. Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule

c. Refuse to specify the said person as the Designated Premises Supervisor

d. Reject whole or part of the application

Having had regard to the Licensing Act 2003, the Secretary of State’s Guidance, the Leeds City Council Statement on licensing 2007 - 2010 and the relevant representations made;

Members resolved to:

Members resolved to grant the new licensable activities applied for, but to refuse that part of the variation which related to an extension of hours.

Decision:

Having heard the submissions and written representations for this variation application Members resolved to grant the new licensable activities applied for, but to refuse that part of the variation which related to an extension of hours.

The reason for refusing the extended hours was for the licensing objective of the prevention of public nuisance. Members had heard from the local Councillor on behalf of residents regarding noise and disturbance already being experienced. They considered that the extend the operation to 01:30 hours Monday to Friday and to 00:30 Tuesday to Thursday would increase the disturbance to local residents in this primary residential area.
In making the decision, Members considered the conditions that had been agreed with Environmental Health. However, they noted that those conditions related to noise being emitted from the premises and not to the noise from patrons dispersing from the premises, other than providing facilities to order taxis and reminders to leave quietly. Given the close proximity of local residents, Members did not consider these measures were sufficient to promote the licensing objectives.

In granting the varied Licence, Members also agreed to impose the health and safety conditions set out on pages 31 & 32 of the Committee report.

**Proposed licensable activities and hours as amended at the hearing:**

- **Indoor Sporting Events**
- **Performance of Dance**
- **Anything of a similar description**
- **Making Music**
- **Dancing**
  - i. Sunday to Thursday 11:00 – 23:00
  - ii. Friday 11:00 – 00:00
  - iii. Saturday 10:00 – 00:00

**Proposed Non Standard Timings:**

An additional hour every Friday, Saturday, Sunday and Monday of each Bank Holiday weekend, the Thursday before Good Friday, Christmas Eve, Boxing Day, St Georges Day, St Patricks Day and Yorkshire Day.

New Years Eve from the start time to finish time on the 2\textsuperscript{nd} January.
Part 2 – Conditions

Mandatory Conditions

Alcohol shall not be sold or supplied except during the hours stated on this licence and:

On Good Friday, 12 noon to 10.30 p.m.

On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

On New Year’s Eve from the end of permitted hours on New Year’s Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit:

(a) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of alcohol so ordered;

(c) the sale of alcohol to a trader or club for the purposes of the trade or club;

(d) the sale or supply of alcohol to any canteen or mess, being a canteen which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(e) the taking of alcohol from the premises by a person residing there; or

(f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or

(g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
Part 3 – Proposed Conditions

The sub committee imposed the following conditions from those proposed in the operating schedule:

Prevention of crime and disorder
Not Applicable

Public safety
Not Applicable

The prevention of public nuisance
Not Applicable

The protection of children from harm
Not Applicable

Part 4 – Conditions Agreed with Responsible Authorities

The sub committee imposed the following conditions from those agreed between the applicant and Responsible Authorities prior to the hearing:

Prevention of crime and disorder
Not Applicable

Public safety

Conditions agreed with Leeds City Council Health and Safety Team

a. A suitably trained and competent person must ensure regular safety checks of the premises including decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer.

b. Electrical installation will be inspected on a periodic basis (at least every 3 years or at a frequency specified in writing) by a suitably qualified and competent person. If used, any temporary electrical wiring and distributions will also be inspected. Inspection records/certificated will be kept. These will be made available at the request of an authorised officer.
c. One of the following protective measures shall be used for all sockets outlets which may be used for connection for lighting, video or sound amplification equipment and display models:

a) Each socket outlet circuit shall be protected by a residual current device having rated residual operating current not exceeding 30mA.

OR

b) Each individual socket outlet shall be protected by an integral residual current device having a rated residual operating current not exceeding 30mA.

c) The current operation of all residual current devices shall be checked regularly by pressing the test button. If the device does not switch off the supply, an electrical contractor should be consulted. At the same time action should be taken to prohibit the use of sockets outlets associated with a faulty residual current device.

The prevention of public nuisance

Conditions agreed with Leeds City Council Environmental Health

a. Ensure that no nuisance is caused by noise or vibration emanating from the premises.

b. Noise from the premises shall be inaudible at the nearest noise sensitive premises (i) after 23:00 hours and (ii) at any time when entertainment, as defined by paragraph 2 of schedule 1 of the Licensing Act 2003, takes place on more than 30 occasions per year.

c. All doors, including fire exits and windows of the premises shall be kept closed during events which involve live, recorded music or voices, except when needed for access/egress.

d. No bottles shall be placed in the external receptacle after 23:00 hours to minimise noise disturbance to adjoining properties.

e. There shall be no external loudspeakers.

f. No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00 hours.

g. Clear and legible notices shall be displayed at exits and other circulatory area requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting, slamming car doors, sounding horns and loud use of vehicle stereos and anti social behaviour. The activity of persons leaving the premises shall be monitored and they shall be reminded to leave quietly where necessary.

h. A facility shall be provided for customers to order taxis and telephone numbers for taxi firms shall be displayed in a prominent location. Where possible there should be a liaison with a local taxi firm to ensure a ready supply of transport and thereby reduce disturbance. To prevent disturbance a waiting area within the premises shall be provided.
i. Ensure that lighting provided for the purpose of customer and staff safety, for the security of the premises and lighting associated with activities of entertainment and advertising is of such an intensity, suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining properties.

j. Ensure that the premises are operated so as to prevent the emission of odours which are a nuisance at nearby premises or to persons in the immediate area.

k. Ensure that business waste is stored inside closed containers awaiting collection; that litter arising from people using the premises is cleared away regularly; that promotional materials such as flyers do not create litter; and that other street advertising is carried out lawfully.

The protection of children from harm

Not Applicable

Part 5 – Conditions imposed at hearing

The Licensing sub committee imposed the following conditions in addition to those which the applicant had proposed:

Prevention of crime and disorder

Not Applicable

Public safety

Not Applicable

The prevention of public nuisance

Not Applicable

The protection of children from harm

Not Applicable
Part 6 – Right Of Appeal

Date of Issue

12th October 2009

Appeals

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.
Part 7 - Procedural Issues

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<tr>
<th>Sub-committee Members:</th>
<th>Councillor Armitage (Chair), Councillor Castle, Councillor Dobson</th>
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<tbody>
<tr>
<td>Legal Officer:</td>
<td>Gill Marshall</td>
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<td>Committee Clerk:</td>
<td>John Grieve</td>
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<td>Licensing Officer:</td>
<td>Bridget Massey</td>
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**Declarations of interest:**

No interests declared

**The following Parties attended the hearing:**

a. Mr John Grayshon - Applicant  
b. Councillor Grayshon – On behalf of residents

**The following parties did not attend:**

a. Leeds City Council Health And Safety  
b. Leeds City Council Environmental Health

**The Sub-Committee:**

To proceed in their absence taking into account their written representations which were included in the Licensing Officers report.

**The Sub-Committee decided the public should be excluded from the following parts of the Hearing:**

When Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

**Reason(s) for excluding public:**

Not Excluded

**Time Limit applied to each Party:**

Ten Minutes

**Any additional documents? No**