

REPORT OF CORPORATE DIRECTOR OF COMMUNITY & CULTURE

Application for Variation of Premises Licence to Specify an Individual as Designated Premises Supervisor

Applicant:	Trust Inns Limited
Date application Received:	2 December 2008
Last date for representations:	16 December 2008
Application Premises:	<p>Elm Tree Inn 53 Beech Avenue New Basford Nottingham NG7 7LR</p> <p>The location of the premises is shown on the map</p>
Licensable Activities carried on at Premises	<p>The current premises licence permits the following licensable activities:</p> <p>Regulated entertainment:-</p> <ul style="list-style-type: none"> • Films • Indoor Sporting Events • Live & Recorded Music • Performances of Dance • Provision of Facilities for Making Music and for Dancing <p>Late Night Refreshment</p> <p>Sale by Retail of Alcohol</p>
Nature of Application(s)	<p>Application to vary a premises licence to specify an individual as designated premises supervisor</p> <p>See application form for full details</p>
Steps Applicant proposes to take to promote the Licensing Objectives	None specified in application
Relevant representations received	<p>Nottinghamshire Police have objected on the grounds of the prevention of crime and disorder</p> <p>Copies of the Police representation together with any supplementary material will be circulated to Members of the Panel separately</p>
Matters which the Authority has asked the parties to clarify	<p><u>Both parties (Applicant and Police)</u></p> <ul style="list-style-type: none"> ◆ Identification of all issues (both factual and legal) which are in dispute.

	<ul style="list-style-type: none"> ◆ Identification of all areas of law, Guidance and Policy upon which they intend to rely ◆ Identification of all conditions which they would agree to see placed upon the licence ◆ Clarification on the following issue: <ul style="list-style-type: none"> (a) Part 2 of the current application, which is dated 2 December 2008, states the name of the existing designated premises supervisor to be Denise Elizabeth Blake; (b) Prior to November 2008 the designated premises supervisor was Thomas Rowan; (c) Denise Elizabeth Blake became temporarily the designated premises supervisor by virtue of an application dated 6 November 2008 to vary the premises licence to specify her in that position; (d) The November 2008 application was, according to the Council's records, withdrawn by the applicant's solicitor on 1 December 2008; (e) Under section 38 of the Licensing Act 2003 the withdrawal of the November 2008 application brought to an end the temporary immediate effect of that application and Thomas Rowan reverted to being the designated premises supervisor ; (f) By virtue of the current application Joanne Bainbridge became the temporary designated premises supervisor with effect from 2 December 2008; (g) Joanne Bainbridge's status as temporary designated premises supervisor will cease on the granting of the application or on the notification of rejection of the application or on the withdrawal of the application. (h) The parties are requested to confirm if they agree with the above analysis and if they do not, to confirm their view as to the position regarding the identity of the designated premises supervisor and the basis for it, in advance of the Panel hearing.
ISSUES	
Issue 1	<p>Whether the public should be excluded during part or all of the hearing of this matter under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005</p> <p><u>Prevention of Crime and Disorder</u> Whether the proposed application will undermine the above licensing objective.</p>
Relevant Policy	Paragraphs 2.3 to 2.5, 7.12, 10.1 - 10.10, Statement of Licensing Policy
Relevant Guidance	Paragraphs 1.28 – 1.30, 2.1 to 2.18 and 4.19 – 4.27 of the Guidance issued under Section 182 of the Licensing Act 2003
Mandatory Conditions	These shall remain as per the existing licence

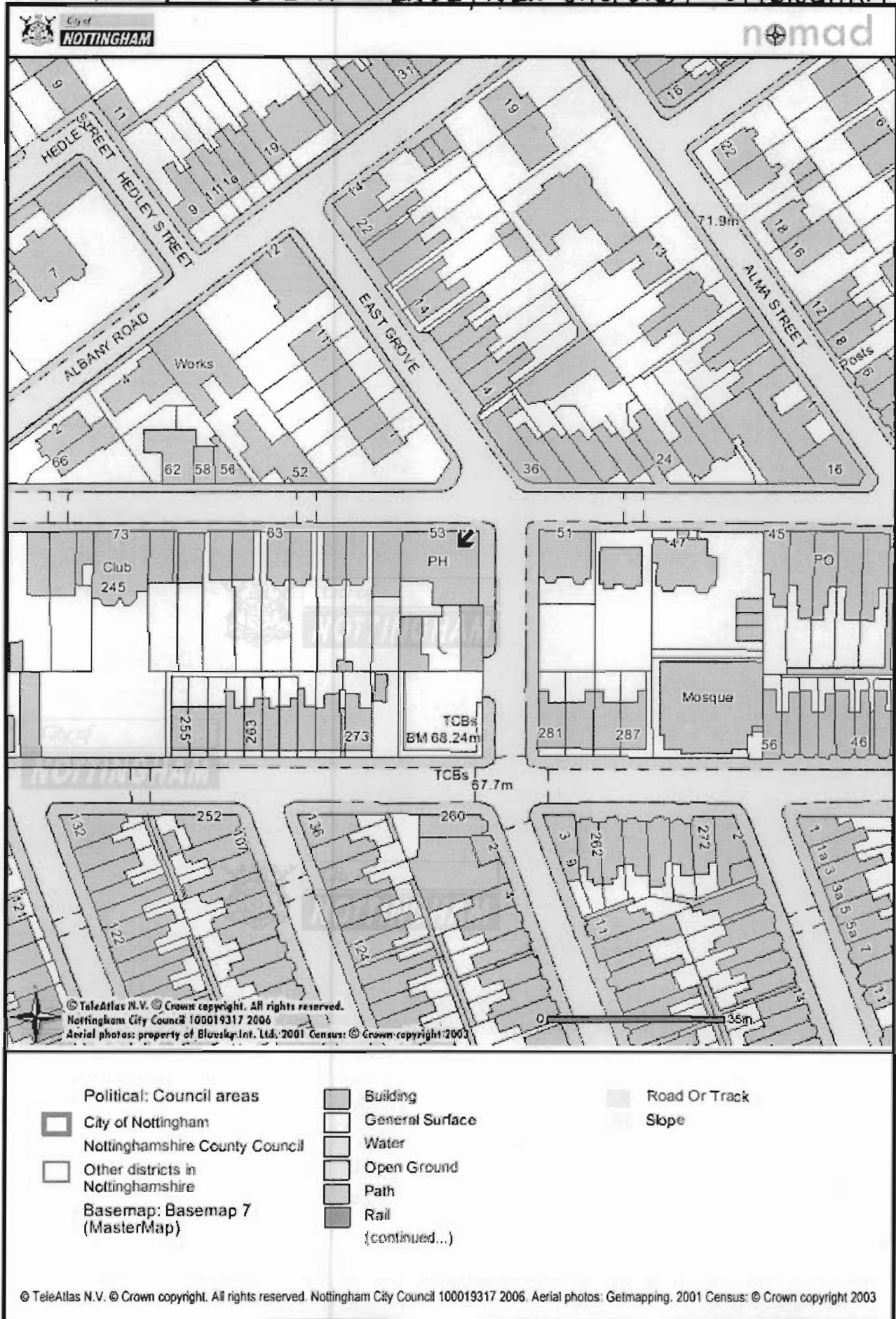
Agreed conditions	None
Other Suggested Conditions	None
Published documents referred to in compiling this report	Statement of Licensing Policy S182 Guidance Licensing Act 2003

Caraline Ryan
Head of Public Protection
LAWRENCE HOUSE, TALBOT STREET, NOTTINGHAM NG1 5NT

Contact Officer: Sue Bowler, Assistant Licensing Officer, 0115 9156777

16 January 2009

ELM TREE, 53 BEECH AVENUE, NEW BASFORD, NOTTINGHAM



Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

We, Trust Inns Limited, being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises Licence Number

037508

Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Elm Tree Inn, 53 Beech Avenue, New Basford

Post town
Nottingham,Post code
NG7 7LR

Description of premises (please read guidance note 1)

Public House

Part 2

Full name of proposed designated premises supervisor
Joanne Bainbridge

Proposed designated premises supervisor and issuing authority of that

Full name of existing designated premises supervisor (if any)
Denise Elizabeth Blake

Please tick ✓ yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it
The issue of the licence document is awaited from the Licensing Authority following the last DPS variation to Denise Blake.

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or the relevant part of it, or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 - Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent. (Please read guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature: John Gaunt & Partners.....

Date: 02 December 2008.....

Capacity: Solicitors.....

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (Please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature: John Gaunt & Partners.....

Date:.....

Capacity: Solicitors.....

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
John Gaunt & Partners Omega Court 372 Cemetery Road	
Post town Sheffield	Post code S11 8FT
Telephone number (if any) 0114 266 8664	
If you would prefer us to correspond with you by email your email address (optional)	

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, each applicant or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.



Notice under Section 37 of the Licensing Act 2003

1. Please state the following:
 - a. Your name - **Heather Read, Deputy Force Solicitor for and on behalf of the Chief Constable.**
 - b. Your address- **Legal Services, Nottinghamshire Police, Headquarters, Sherwood Lodge, Nottingham. NG5 8PP**
 - c. Your phone number - **0115 9670999 x 2675**
 - d. Your e-mail address **Heather.read@nottinghamshire.pnn.police.uk**

Community & Culture - Licensing
 Time
 9 - DEC 2008

2. Capacity in which this representation is made¹. Please delete as appropriate -

A Responsible Authority as defined by the Licensing Act 2003

3. Please identify the application you wish to make a representation about.

Application to vary a premises licence to specify the individual named in this application as the premises supervisor namely Joanne Bainbridge, made by Trust Inns Limited for the Elm Tree Inn, 53 Beech Avenue, New Basford, Nottingham.

4. Which of the licensing objectives does your notice relate to? Please delete as appropriate.

The Prevention of Crime and Disorder.

- 5 Details regarding why the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application will undermine the crime prevention objective.

We have met with Ms Bainbridge to discuss how she intends to manage the Elm Tree Inn. She did not offer any proposals relating to her business plan or how any necessary changes would be financed. She was asked to run the premises by Mr Jefferson Blake as a favour. Trust Inns have offered the tenancy to Mr Blake at a very reasonable price. Mr Blake is a Designated

Premises Supervisor at one of our more problematic premises in Nottingham, which needs careful handling and on site management. This means that he personally could not effectively run two such problem premises, hence his need to engage another DPS.

She has limited knowledge and skills in the licensing trade having only covered the bar in a snooker club in Langley Mill on a temporary basis, as and when required, for an 8 month period. These premises were a completely different type of operation to the Elm Tree Public House, and have never suffered from particular problems of crime and disorder.

Further, Ms. Bainbridge came to the attention of the Police when she was involved with the running of the Variety Club, in Basford. This club was found to have breached its licence conditions, selling after hours; opening after hours; and, customers participating in activities involved with the striptease acts that were against the conditions of the licence.

Given the history of the Premises for which the variation is sought, a robust management approach would be required

It is a concern to the Police that this application is another attempt by the owner of the Elm Tree Inn to preserve the licence pending review without any proper regard to the licensing objectives.

The Premises licence is the subject of an application for Review, brought by Environmental Health. Serious consideration should be given to how these particular premises are to be operated in the future, and there has been no indication that this operator could uphold the licensing objective of the prevention of crime and disorder, or that such serious consideration has been given to the proposed operation. It is felt that Trust Inns, the premises licence holder, are merely seeking to circumvent the review process and have put forward a DPS who has only held a personal licence since April 2008.

This is the second application served by Trust Inns to change the Designated Premises Supervisor to a person without the necessary experience. There has been no communication between the Company and the Police to discuss the suitability of this person and whether they are able to support the licensing objectives.

In these circumstances the Applicant has not demonstrated that the objective of the prevention of Crime and Disorder would be upheld.

The above will be amplified at any subsequent hearing.

- 6 If you are suggesting that conditions should be attached to any licence granted please give the wording of the proposed condition(s) and state why you feel they are necessary and proportionate. Please continue on a separate sheet if necessary.

Not applicable

- 7 Please indicate any parts of the Licensing Authority's Statement of Policy which you feel may be relevant to your representation.²

7.12; 9.38; 9.39.

(Others may be referred to at any hearing.)

- 8 Please indicate any parts of the Guidance issued under S 182 of the licensing Act 2003 which you feel may be relevant to your representation³.

1.28 – 1.29; 2.1; 2.12 – 2.14; 4.19 - 4.27.
(Others may be referred to at any hearing.)

- 9 As you have made a representation the Application may need to be determined at a hearing of the Licensing Committee or one of its Panels. At this stage would you intend to attend such a hearing⁴? Please circle as appropriate.

Yes

- 10 If you intend to attend any hearing that may be held it would be helpful at this stage if you could give an indication as to how long you think you would need to make your representation(s).

1 hour.

In the event that the Council receives an amended operating schedule or agreement to the working on the proposed condition(s) as appropriate, please consider this representation to be withdrawn and attach such wording or condition to the licence, using your delegated powers.

Not Applicable.

Thank You for making your representation. Please send it to:-

**The Licensing Officer
General Licensing Services
City Development
Lawrence House
Talbot Street
Nottingham
NG1 5NT**

The Licensing Team will contact you in due course regarding the next stage of the process and the applicant or other interested parties may choose to contact you to discuss this matter further.

¹ If you do not fall within any of these categories the Licensing Authority cannot take your representation into account. If you are acting as a representative you should indicate who it is that you represent and , evidence that you are authorised to make the representation eg letter of authority, extract of minutes where the matter has been discussed etc.

² We appreciate that not all persons making representations will be fully familiar with the Authority's Licensing Policy. It would be helpful to all concerned, however, if the parts which you feel are relevant could be highlighted here though a failure to do so will not of itself mean that your representation will not be considered. The Authority's policy is available www.nottinghamcity.gov.uk/flr

³ We appreciate that not all persons making representations will be fully familiar with the Section 182 Guidance. It would be helpful to all concerned, however, if the parts which you

Licensing Act 2003

Community & Culture

Lawrence House
Talbot Street
Nottingham
NG1 5NT
Tel: 0115 915 5555
Fax: 0115 915 6145

Premises Licence

Premises licence number 037508
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Elm Tree Inn
53 Beech Avenue
New Basford

Post town	Nottingham	Post code	NG7 7LR
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Telephone number	0115 9127224
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Where the licence is time limited the dates
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Not applicable

Licensable activities authorised by the licence
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Films - Indoors;
Indoor Sporting Events;
Live Music – Indoors;
Recorded Music – Indoors;
Performances of Dance - Indoors;
Provision of Facilities for Making Music - Indoors;
Provision of Facilities for Dancing - Indoors;
Late Night Refreshment - Indoors;
Sale by Retail of Alcohol;

The times the licence authorises the carrying out of licensable activities

Films, Indoor Sporting Events, Recorded Music, Performances of Dance, Provision of Facilities for Making Music and for Dancing:

Monday from 11.00 hrs to 24.00 hrs
Tuesday from 11.00 hrs to 24.00 hrs
Wednesday from 11.00 hrs to 24.00 hrs
Thursday from 11.00 hrs to 24.00 hrs
Friday from 11.00 hrs to 02.00 hrs the following morning
Saturday from 11.00 hrs to 02.00 hrs the following morning
Sunday from 12.00 hrs to 24.00 hrs

On New Year's Eve from the end of permitted hours to the start of permitted hours on New Year's Day.

To permit licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours. Such opening times to be confirmed upon 7 days prior notice in writing to the Police before the event which shall include the sporting event which is to be shown.

Live Music: (Varied by review: 19 February 2007)

Monday from 11.00 hrs to 23.00 hrs
Tuesday from 11.00 hrs to 23.00 hrs
Wednesday from 11.00 hrs to 23.00 hrs
Thursday from 11.00 hrs to 23.00 hrs
Friday from 11.00 hrs to 23.00 hrs
Saturday from 11.00 hrs to 23.00 hrs
Sunday from 12.00 hrs to 23.00 hrs

Late Night Refreshment:

Monday from 23.00 hrs to 24.00 hrs
Tuesday from 23.00 hrs to 24.00 hrs
Wednesday from 23.00 hrs to 24.00 hrs
Thursday from 23.00 hrs to 24.00 hrs
Friday from 23.00 hrs to 02.00 hrs the following morning
Saturday from 23.00 hrs to 02.00 hrs the following morning
Sunday from 23.00 hrs to 24.00 hrs

On New Year's Eve from the end of permitted hours to the start of permitted hours on New Year's Day.

To permit licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours. Such opening times to be confirmed upon 7 days prior notice in writing to the Police before the event which shall include the sporting event which is to be shown.

Alcohol Sales:

Monday from 11.00 hrs to 24.00 hrs
Tuesday from 11.00 hrs to 24.00 hrs
Wednesday from 11.00 hrs to 24.00 hrs
Thursday from 11.00 hrs to 24.00 hrs
Friday from 11.00 hrs to 02.00 hrs the following morning
Saturday from 11.00 hrs to 02.00 hrs the following morning
Sunday from 12.00 hrs to 24.00 hrs

On New Year's Eve from the end of permitted hours to the start of permitted hours on New

Year's Day.

To permit licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours. Such opening times to be confirmed upon 7 days prior notice in writing to the Police before the event which shall include the sporting event which is to be shown.

The opening hours of the premises

Monday from 11.00 hrs to 00.30 hrs the following morning
Tuesday from 11.00 hrs to 00.30 hrs the following morning
Wednesday from 11.00 hrs to 00.30 hrs the following morning
Thursday from 11.00 hrs to 00.30 hrs the following morning
Friday from 11.00 hrs to 02.30 hrs the following morning
Saturday from 11.00 hrs to 02.30 hrs the following morning
Sunday from 12.00 hrs to 00.30 hrs the following morning

On New Year's Eve from the end of permitted hours to the start of permitted hours on New Year's Day.

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours. Such opening times to be confirmed upon 7 days prior notice in writing to the Police before the event which shall include the sporting event which is to be shown.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Alcohol - On the premises
Alcohol - Off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Trust Inns Limited, Blenheim House, Foxhole Road, Ackhurst Park, Chorley PR7 1NY

(Transferred 4 April 2008)

Registered number of holder, for example company number, charity number (where applicable)

3011034

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Thomas Rowan

(Varied 6 September 2008)

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

10550750 – Derby City Council

Signed:.....
Licensing Officer

Dated: 27 September 2005
Reviewed: 19 February 2007
Varied: 10 March 2007

Annex 1 - Mandatory conditions

S. 19 Licensing Act 2003

1. No supply of alcohol may be made under this licence
 - a. At a time when there is no designated premises supervisor in respect of it or,
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

S. 20 Licensing Act 2003

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made

- a. by the British Board of Film Classification (BBFC) where the film has been classified by that Board, or
- b. by the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20 (3) (b) of the Licensing Act 2003 applies to the film.

Annex 2 - Conditions consistent with the Operating Schedule – (Varied: 10 March 2007)

1. Electrical sockets used by entertainers shall be fitted with residual current device protection (complying with BS 7671 Requirements for Electrical Installations) and labelled accordingly.
2. The dance floor shall be clearly delineated and shall be positioned in such a way as to ensure the safety of persons using the dance floor.
3. The arrangements for access around the dance floor and for seating in the vicinity of the dance floor shall be such that neither dancers, nor others, seated or otherwise, are put at risk of injury.
4. The premises licence holder and Designated Premises Supervisor will ensure that noise levels from recorded music do not give cause for annoyance to persons in the vicinity of the licensed premises.
5. The premises licence holder and Designated Premises Supervisor will ensure that:
 - (i) that doors and windows are kept closed whilst music is playing
 - (ii) that mechanical ventilation systems are maintained in good working order to provide sufficient alternative ventilation.
6. No customers carrying open bottles shall be admitted to the premises.
7. Drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.
8. Where appropriate, prominent clear and legible notices shall be displayed at all exits requesting customers to leave the premises and the area quietly.
9. CCTV cameras shall be installed and maintained in the premises in accordance with Police Licensing Officers' recommendations. Images shall be retained for at least 31 days and shall be made available immediately upon request to Officers of Responsible Authorities.
10. At least two Security Industry Authority registered door supervisors shall be employed at the premises from 22.00 hours on any night of the week that the premises are open to the public beyond 00.30 hours or when regulated entertainment involving live music, singing and or dancing are provided.
11. The Designated Premises Supervisor is to ensure that persons employed as door supervisors wear and clearly display their SIA registration badge at all times whilst on duty. A bound book shall be kept containing the names, addresses, dates of birth, days and hours worked, of door supervisors shall be made daily, kept for at least twelve months and made available for inspection and copying by the Police upon request.

12. When door supervisors are employed, they shall conduct random searches of customers prior to admission for drugs and weapons.
13. Notices shall be displayed advising customers that searches will be carried out and admission will be refused to customers refusing to be searched. A record shall be kept showing details of anyone refusing to be searched, together with the time and date of the refusal. Such record to be made available for inspection and copying by the Police upon request.
14. If drugs are found during a personal search, or whilst being used within the premises, a clear image of the person found in possession will be captured on CCTV. Following a risk assessment of the situation arising from the find, any person found using or in possession of drugs will be detained, if safe and practicable, and the Police called.
15. Any drugs or weapons found, either during a search or otherwise on the premises, will be confiscated and stored in a secure container prior to being handed over to the Police, which must be done as soon as practicable.
16. Any seizures of drugs, weapons, or other property shall be recorded, together with the name and address of the person found with the article. The record shall be made in a diary or bound book which shall be retained at the premises for at least 2 years and shall be made available for inspection and copying by the Police upon request.
17. A bound and sequentially numbered incident/accident book shall be maintained and kept on the premises detailing all incidents of personal injury, damage and disorder. This book is to be made available for inspection and copying by the Police and Officers of Responsible Authorities upon request and retained at the premises for at least 2 years.
18. The toilets at the premises are to be checked hourly for drugs use and evidence of supply taking place. Cocaine wipes to be used at least twice a week. A record shall be kept of the results of the checks detailing how and where any illegal substance was found. The record to be retained at the premises and made available for inspection and copying by the Police upon request.
19. No one under the age of 18 years shall be allowed admittance to or remain on the premises after 19.00 hours apart from relatives of the Designated Premises Supervisor who shall be permitted access to and from any living accommodation within the premises.
20. The premises shall operate a 'Challenge 21' proof of age scheme.

Annex 3 - Conditions attached after a hearing by the licensing authority

Review: 19 Feb 2007

1. No live music shall be provided at the premises other than via a noise limiter which shall be fully and satisfactorily operational. The noise limiter will be set and sealed in conjunction with the noise pollution control team of Nottingham City Council and the resident at 55 Beech Avenue.
2. No recorded music shall be provided at the premises until a second microphone has been installed to the existing noise limiter and the noise limiter has been made fully and satisfactorily operational. The noise limiter will be set and sealed in conjunction with the pollution control team of Nottingham City Council and the resident at 55 Beech Avenue.
3. Before the noise limiter has been set and sealed on any day when regulated entertainment is occurring at the premises after 23.30 hours there shall be at least one personal licence holder on site from 23.30 hours until the regulated entertainment ceases.
4. Should the above measures and/or any further steps taken not successfully prevent noise breakout the premises licence holder understand that a further review application may be made within 12 months of the most recent review application and no issue will be taken with that course due to the fact that it is less than 12 months since the earlier review.

Annex 4 – Plans

Plan received with the application on 28 July 2005
Plan applicable from the issue date of the licence.

27 September 2005