

**6 DCCE2006/3665/F - VARIATION OF HOURS TO NIGHTCLUB OF PLANNING PERMISSION H/P28121/E TO:
MON - THURS 12.00-02.00
FRIDAY - SAT 12.00-03.00
SUNDAY 12.00-01.30 CLUB MO, GAOL STREET, HEREFORD, HR1 2HU**

For: Mr. S. Harrison, Club MO, Gaol Street, Hereford, HR1 2HU

Date Received: 21st November, 2006 **Ward: Central** **Grid Ref: 51238, 40054**

Expiry Date: 16th January, 2007

Local Member: Councillor D.J. Fleet

Introduction

This application was deferred from the Central Area Planning Committee held on the 17th January 2007 to allow attendance at this subsequent meeting by an Officer from the Licensing Section and enable concerns relating to the requested extended hours to be fully explored by Members. This report has been updated and now includes the comments of West Mercia Police as well as a new form of words for the restrictive hours condition, which is considered clearer (see proposed Condition 2).

1. Site Description and Proposal

1.1 This application seeks permission to vary Condition 1 attached to planning permission H/P/28121/E to allow extended opening hours at Club M O, 1 Gaol Street, Hereford. The site is located on the northern side of Gaol Street, adjacent to the Probation Service facility. The site lies within the Central Hereford Conservation Area, the Central Shopping and Commercial Area, and an Area of Archaeological Importance.

1.2 Condition 1 attached to permission H/P/28121/E states that:

'The hours of opening shall be in accordance with the applicants stated intentions as follows: Sundays - 8.00pm to 10.30pm, Mondays and Tuesdays - 8.00pm to 11.00pm, Wednesdays, Thursdays, Fridays and Saturdays - 8.00pm to 1.00am'.

1.3 This application seeks to vary Condition 1 to extend opening hours to: Monday to Thursday 12.00pm to 02.00am, Fridays and Saturdays 12.00pm to 03.00am, Sundays 12.00pm to 02.00am.

2. Policies

2.1 Planning Policy Statement 6 – Planning for Town Centres
Circular 11/95 – The Use of Conditions in Planning Permissions

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S2	-	Development requirements
S5	-	Town centres and retail
S7	-	Natural and historic heritage
DR13	-	Noise
TCR1	-	Central shopping and commercial areas
HBA6	-	Development within conservation areas
ARCH7	-	Hereford Area of Archaeological Importance

3. Planning History

- 3.1 H/P/28121/E - Change of use of disused warehouse to nightclub, situated at Gaol Street Warehouse (adj Old St Peter's School). Approved 6th November, 1985.

4. Consultation Summary

Statutory Consultations

- 4.1 West Mercia Police: No objection.

Internal Council Advice

- 4.2 Traffic Manager: No objection.
- 4.3 Conservation Manager: No objection.
- 4.4 Environmental Health and Trading Standards Manager: 'I have examined the application and have no objection to the proposed variation of hours'.
- 4.5 Licensing Manager: Confirmed that the licensed opening hours that will be in operation:
- Supply of alcohol and late night refreshment Monday 12.00pm - 02.00am, Tuesday to Thursday 12.00pm - 02.30am, Fridays and Saturdays 12.00pm - 03.00am, Sundays 12.00pm to 01.30am;
 - Non standard hours: Christmas Eve 12.00pm to 02.00am, New Year's Eve 24 hour, Bank Holidays 12.00pm to 03.00am.

5. Representations

- 5.1 Hereford City Council: 'Hereford City Council recommends refusal on the grounds that potential noise and vibration nuisance may arise which will impact detrimentally on adjacent residential properties'.
- 5.2 Local Residents: A single letter of objection has been received objecting on the grounds of noise, nuisance and disturbance to residential properties, many of which are historic with old style windows.
- 5.3 The full text of these letters can be inspected at Central Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 On the 24th November, 2005 the Licensing Act 2003 came into force. The act removes standard licensing hours enabling licensed premises to apply to remain open for longer. It is stated that the act should:

‘.enable flexible opening hours for premises, with the potential for up to 24 hours opening, seven days a week, subject for consideration of the impact on local residents, businesses and the expert opinion of a range of Authorities in relation to licensing objectives. This will help to minimise public disorder resulting from fixed closing times’. (Licensing Act 2003).’

6.2 The Circular advises that a condition which duplicates the effects of other controls will be unnecessary and one whose requirements conflict with those of other controls will be ultra-vires because it is unreasonable. Notwithstanding this, the Circular also states that even where other controls are available, a condition may be needed when the considerations material to the exercise of the two systems of control are substantially different. In the case of planning controls the broader considerations of amenity are considered. It is of note that the Licensing Act of 2003 is specifically intended to consider the following four objectives:

- 1) The prevention of crime and disorder;
- 2) Public safety;
- 3) The prevention of public nuisance; and
- 4) The protection of children from harm.

The objectives outlined above clearly have implications upon the preservation of residential amenities, however, it is the case that the operations of the unit in question will have wider implications upon the residential amenities of local residents and the proximity of dwellings to this premise renders the retention of a condition controlling opening hours necessary and reasonable.

6.3 In relation to the specific hours requested, the Environmental Health Manager has raised no objection. Typically it is assessed that the Licensing Act should provide effective controls and this is considered to be the case here. The West Mercia Constabulary have also confirmed that they have no objection to the proposed new hours. On this basis it is proposed that the condition be varied to reflect the hours of operation confirmed by the Licensing Manager. This will necessitate a variation of the hours requested by the applicant with respect to the early hours of Sunday morning (ie 0130 instead of 0200 requested).

6.4 Notwithstanding the comments above, the longer opening hours requested will potentially place an additional burden on the operation of the existing CCTV system within Hereford generally and on the immediate locality of the site in particular, as well as, causing further issues associated with street maintenance, dispersal policies, and taxi availability. The existing CCTV system does not operate 24 hours. This premise, along with many other bars and clubs in Hereford, are requesting to remain open for a longer time period which will therefore necessitate the extension of the existing CCTV operations to operate 24 hours a day. It is considered reasonable that the application property, along with other bars and clubs, contribute towards the continued and extended operation of CCTV in their respective parts of Hereford. Furthermore, the increased burden being placed upon resources having regard to the aforementioned street maintenance, dispersal policies and taxi availability management require

mitigation. Therefore, a financial contribution is requested for this purpose. No response has been received from the applicant as yet and therefore a condition is proposed to be attached to secure an appropriate financial contribution.

RECOMMENDATION

That planning permission be approved subject to the following conditions:

- 1. A01 (Time limit for commencement (full permission)).**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. The use hereby permitted shall not be open to customers outside the following hours: Monday 12.00 (noon) to Tuesday 02.00am, Tuesday 12.00 (noon) to Wednesday 02.00am, Wednesday 12.00 (noon) to Thursday 02.00am, Thursday 12.00 (noon) to Friday 02.30am, Friday 12.00 (noon) to Saturday 03.00am, Saturday 12.00 (noon) to Sunday 02.00am, Sunday 12.00 (noon) to Monday 01.30am.**

Reason: In the interest of the amenity of the locality.

- 3. The permission hereby granted is an amendment to planning permission H/P/2821/E and, otherwise than is expressly altered by this permission the conditions attached thereto remain.**

Reason: For the avoidance of doubt.

- 4. Within two months of the date of this permission, details including a timetable and the method of providing a contribution(s) and/or other assistance towards the operation and management of Closed Circuit Television system, street cleaning and client dispersal policy in the locality of the application site shall be submitted for the approval in writing of the local planning authority. The agreed contributions and/or other measures shall be implemented in accordance with the approved details and timescale.**

Reason: To ensure the effective operation and management of the day and night time economy in the interests of public safety, residential and visual amenity and the general vitality and viability of Hereford City Centre.

Informatives:

- 1. N03 - Adjoining property rights**
- 2. N15 - Reason(s) for the Grant of PP/LBC/CAC**
- 3. N19 - Avoidance of doubt**

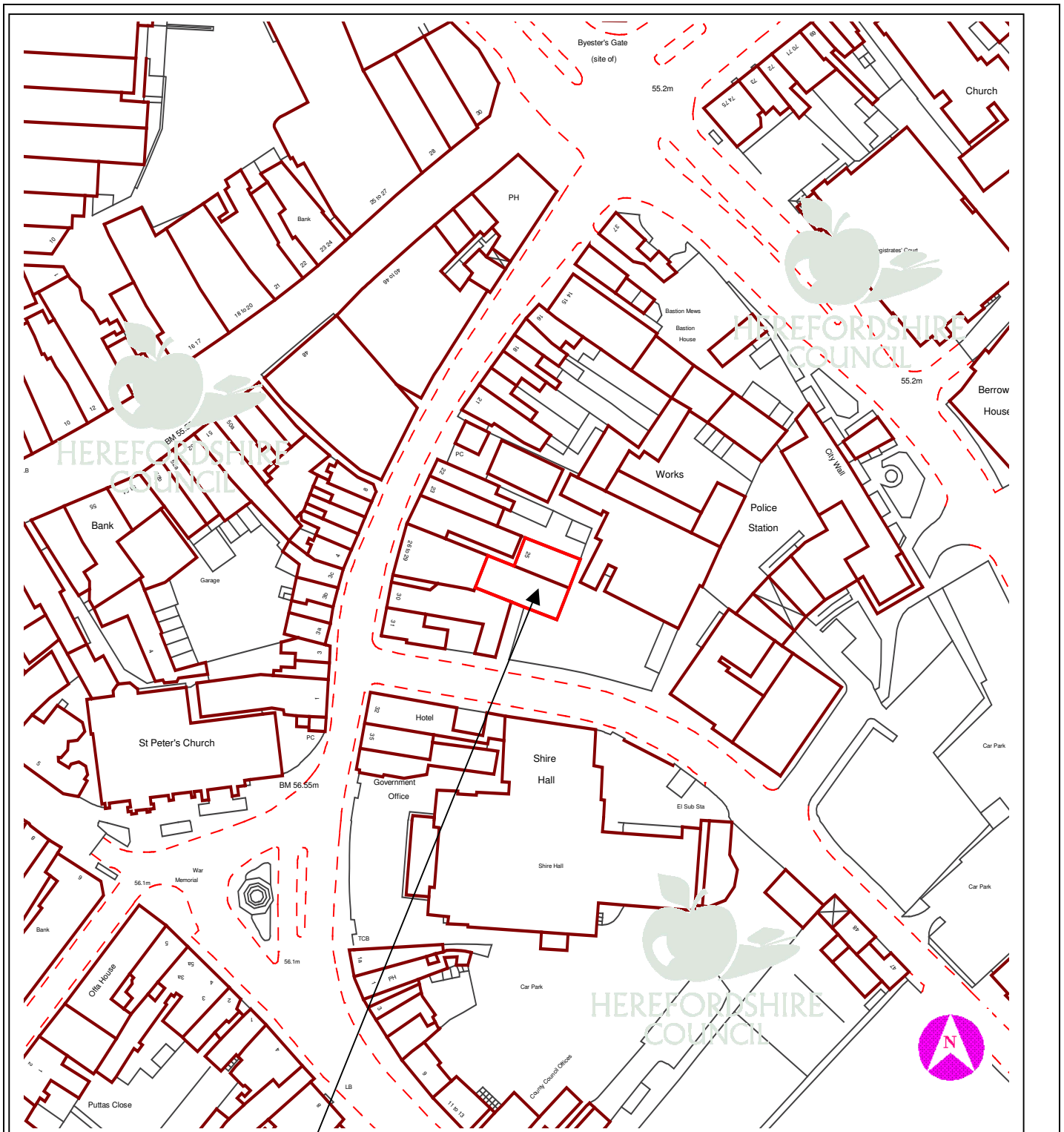
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2006/3665/F

SCALE : 1 : 1250

SITE ADDRESS : Club MO, Gaol Street, Hereford, Herefordshire, HR1 2HU

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