

Gloucester City Council

COMMITTEE	: LICENSING SUB COMMITTEE
DATE	: 23 JULY 2008
SUBJECT	: REVIEW OF PREMISES LICENCE UNDER SECTION 51 OF THE LICENSING ACT 2003 – THE ROBIN HOOD, 39 BRISTOL ROAD, GLOUCESTER GL1 5SA
WARD	: MORELAND
REPORT BY	: LICENSING ENFORCEMENT MANAGER
NO. OF APPENDICES	: 1: MAP SHOWING LOCATION OF THE ROBIN HOOD, 39 BRISTOL ROAD, GLOUCESTER 2: PART A OF ORIGINAL LICENCE 3: PART A OF LICENCE ISSUED ON 31/10/2006 4: POLICE APPLICATION 5: RESPONSE RECEIVED FROM TRADING STANDARDS SERVICE 6: RESPONSE RECEIVED FROM GLOUCESTER CHARITIES TRUST 7: RESPONSE RECEIVED FROM ENTERPRISE INNS 8: RESPONSE RECEIVED FROM ENVIRONMENTAL HEALTH POLLUTION CONTROL TEAM 9: LETTER FROM MR WIBBY – 7 JULY 2008 10: LICENSING POLICY STATEMENT - PAGES 31 TO 32 11: SECRETARY OF STATES GUIDANCE SECTION 10 PARAGRAPHS 10.11 TO 10.18 12: SECRETARY OF STATES GUIDANCE SECTION 11 13: PROCEDURE FOR LICENSING SUB COMMITTEES
REFERENCE NO.	: ES20814

1.0 PURPOSE OF REPORT

- 1.1 For Members to conduct a review of the Premises Licence following an application made by Gloucestershire Constabulary under Section 51 of the Licensing Act 2003.

2.0 RECOMMENDATIONS

- 2.1 That Members consider the grounds for review and the information contained in the Police application in respect of their relevance to the four objectives of the Licensing Act 2003 and decide on one of the following options which the Act allows for:

- a) To reject the application
- b) To modify the conditions of the licence
- c) To exclude a licensable activity from the scope of the licence
- d) To remove the Designated Premises Supervisor
- e) To suspend the licence for a period not exceeding three months
- f) To revoke the licence
- g) Subject to paras. 11 – 13 of the Licensing Act 2003 (Hearings) Regulations 2005 adjourn the hearing to a specified date or arrange for a hearing to be held on specified additional dates, where Members consider this to be necessary for their consideration of any representations or notice made by a party.

Where the Authority decides to take the steps outlined in b) or c) above it may provide that the modification or exclusion has effect for a period not exceeding three months.

3.0 BACKGROUND

- 3.1 The Robin Hood is a neighbourhood pub situated on the corner of Bristol Road and Philip Street opposite the entrance to Madleaze Industrial Estate (Appendix A Map of premises). The premises were subject to a conversion and variation application under the 2003 Act by the then licensees Mr and Mrs Flanagan. Following representations made at the time by the Police and the subsequent agreement to accept additional conditions the licence was issued on 21 October 2005. (Appendix 2 Part A of original licence).
- 3.2 The licence states the activities permitted, the times when the permitted activities may be carried out and the conditions applicable to the operation of the licence.
- 3.3 An application was made to the Licensing Authority to vary the licence in respect of specifying the Designated Premise Supervisor and Premises Licence Holder as being a Mr Alan Wibby Personal Licence Holder number 2818/1 issued by Birmingham City Council.
- 3.4 A new licence was issued on the 31 October 2006. All existing terms and conditions remained intact. (Appendix 3 Part A of licence issued on 31/10/2006).
- 3.5 Section 51 of the Licensing Act 2003 states that where a premises licence has effect an interested party or responsible authority may apply to the relevant licensing authority for a review of the licence.
- 3.6 In respect of an application from a responsible authority the licensing authority may only reject the application if the grounds are not relevant to one or more of the licensing objectives.

4.0 PROGRESS

- 4.1 An application for review has been received from Gloucestershire Constabulary and relates to all four licensing objectives, namely:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

4.2 The Police application is attached. (Appendix 4).

4.3 It should be noted that in their application it is requested, on page 5, that consideration be given to revoking Mr Wibby's Personal Licence. The Licensing Act does not allow for the Sub Committee to take such action. This power is given to the Magistrates Court who may suspend or revoke a Personal Licence following a conviction for a relevant offence. The Police have been made aware of this.

4.4 The Police have confirmed that copies of the review application were served on the Responsible Authorities, as recognised by the Licensing Act, and the Premises Licence Holder.

4.5 The application for the review was advertised, by way of notice, both on the premises and on the public notice board on the outside of the City Council's Herbert Warehouse from 12 June 2008 until 10 July 2008 inviting responsible authorities and interested parties to make representations concerning the application if they so wished.

4.6 Responses were received from the following:

- Gloucestershire County Council Trading Standards Service. (Appendix 5)
- The Gloucester Charities Trust on behalf of the residents of St Phillip's Court, Phillip Street. (Appendix 6)
- Gosschalks Solicitors representing Enterprise Inns plc the owners of the Robin Hood. (Appendix 7)
- Gloucester City Council Environmental Health Pollution Team. (Appendix 8)

4.7 All parties involved have been served with the relevant notices and documentation as required by the Licensing Act 2003 (Hearings) Regulations 2005.

4.8 These documents include an explanation of the rights of persons to attend hearings and to be represented, to give evidence and to call witnesses, the consequences of not attending and the procedure to be followed at a hearing.

4.9 Mr Wibby wrote to the Licensing Authority on 7 July 2008 (Appendix 9) stating that the solicitors he had originally employed to represent him were no longer able to do this and that, furthermore, he will be on holiday from 18 July until 01 August 2008. He makes the comment that because of this he perceives himself as being 'at a serious disadvantage'.

5.0 THE LICENSING POLICY STATEMENT AND GUIDANCE

5.1 Pages 31 to 32 of the Council's Licensing Policy Statement outlines our policy with regard to reviews, relevant representations and subsequent appeals. Members attention is drawn to these pages. (Appendix 10)

- 5.2 Section 10 and in particular paragraphs 10.11 to 10.18 of the Secretary of States Guidance is of relevance where consideration is being given to imposing conditions on a premise licence. (Appendix 11)
- 5.3 Section 11 of the above guidance provides advice in relation to the powers of a Licensing Authority in determining a review of a premises licence. (Appendix 12).
- 5.4 The application must be determined within 5 working days of the conclusion of the hearing in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

6.0 CONCLUSIONS

- 6.1 In reviewing a Premises Licence the Licensing Authority is required to have regard to the application made, any relevant representations and the steps referred to in section 2 of this report.
- 6.2 In deciding whether to apply any of these steps the Licensing Authority should, so far as possible, seek to establish the cause of the concerns which the representations identify.
- 6.3 If remedial action is to be taken it should be directed at the cause identified and should always be no more than a necessary and proportionate response.
- 6.4 Members need carefully to consider the fact that Mr Wibby may not be able to be represented at the hearing and the harm that that may cause should a challenge to the Committee's decision be forthcoming at a later date.

7.0 FINANCIAL IMPLICATIONS

- 7.1 The recommendations of the report have no impact on the Council's Budgets.
- 7.2 **Name of the Officer:** Steve Phelps

8.0 LEGAL IMPLICATIONS

- 8.1 The Licensing Sub-Committee is asked to determine an application made under Section 52 an application under Section 51 for a review of the premises licence. Such an application to review a premises licence can be made by a responsible authority or an interested party because of matters arising at the premises in connection with the four licensing objectives.
- 8.2 To consider the application, the Sub-Committee must be satisfied:
- a) the application is properly made.
 - b) the applicant has given proper notice.
 - c) the applicant has satisfied the advertising requirements.
 - d) the Licensing Authority has considered the grounds not to be frivolous, vexatious or repetitious.
 - e) the Licensing Authority has considered the ground(s) to be relevant to at least one of the licensing objectives.

- 8.3 The four licensing objectives are set out in paragraph 4.1 of the report.
- 8.4 Each of the licensing objectives must be considered of equal importance.
- 8.5 The Sub-Committee must having regard to the application and any relevant representations may take any of the steps set out in the report at paragraph 2.1 a)-f).
- 8.6 The Sub-Committee has powers to adjourn or carry forward the hearing to additional specified dates as set out in paragraph 2.1 g) of the report.
- 8.7 For the purposes of determining an application, a "relevant representation" means a representation which:
- a) is relevant to one or more of the licensing objectives.
 - b) is made by the holder of the premises licence, a responsible authority or an interested party within the prescribed period.
 - c) have not been withdrawn.
 - d) if having been made by an interested party (who is not also a responsible authority), that they are not in the opinion of the Licensing Authority frivolous or vexatious.
- 8.8 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any step necessary to promote the licensing objectives.
- 8.9 In deciding what remedial action, if any it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations identify. Any remedial action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committees decision must be necessary and proportionate. The Sub-Committee is required to have regard to the DCMS Guidance when making its decision. However the Guidance does not cover every possible situation, so long as the Guidance has been properly and carefully understood, the Sub-Committee may depart from it if they have reasons to do so. Full reasons must be given if this is the case.
- 8.10 Where the Sub-Committee determines an application for review it must notify the determination and reasons for making it to:
- a) the holder of the premises licence.
 - b) the Police as the applicant.
 - c) the person who made the relevant representations.
- 8.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as Appendix 13.
- 8.12 It should be noted by the Sub-Committee that in relation to this application the Council has a number of roles through Council services. In particular a response has been received from the Environmental Health Pollution Control Team as Appendix H.

- 8.13 In considering the application, the Sub-Committee is solely performing the role of Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application. The Sub-Committee needs to disregard the wider Council objectives and other statutory roles and must direct themselves to making a determination solely based on the licensing law, Guidance and the Council's Statement of Licensing Policy.
- 8.14 As a quasi-judicial body, the Sub-Committee is required to consider the application on its merits. It must take into account only relevant factors and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant.
- 8.15 The Sub-Committee can consider events that happen outside the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for them to be relevant.

However, if such events are not directly attributable to the premises being open, then the evidence is not relevant and should be excluded. The Guidance is that the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

- 8.16 Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision.
- 8.17 The Sub-Committee has a duty under Section 17 of the Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the City.
- 8.18 Interested Parties, Responsible Authorities and the applicant have the right to appeal the Sub-committees decision to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified of the decision to be appealed against.

8.19 **Name of the Officer:** Steve Isaac

9.0 RISK MANAGEMENT IMPLICATIONS

- 9.1 The risk of an appeal to Magistrates or Judicial Review should inappropriate decisions be made or the regulatory procedures not be followed.

10.0 PREDICTIVE IMPACT ASSESSMENTS (EQUALITIES)

10.1 None

11.0 OTHER CORPORATE IMPLICATIONS

1. Community Safety

The 4 objectives of the Licensing Act 2003 are designed to support the community safety aspects and are dealt with within the body of the report.

2. Environmental

As above.

3. Staffing

None.

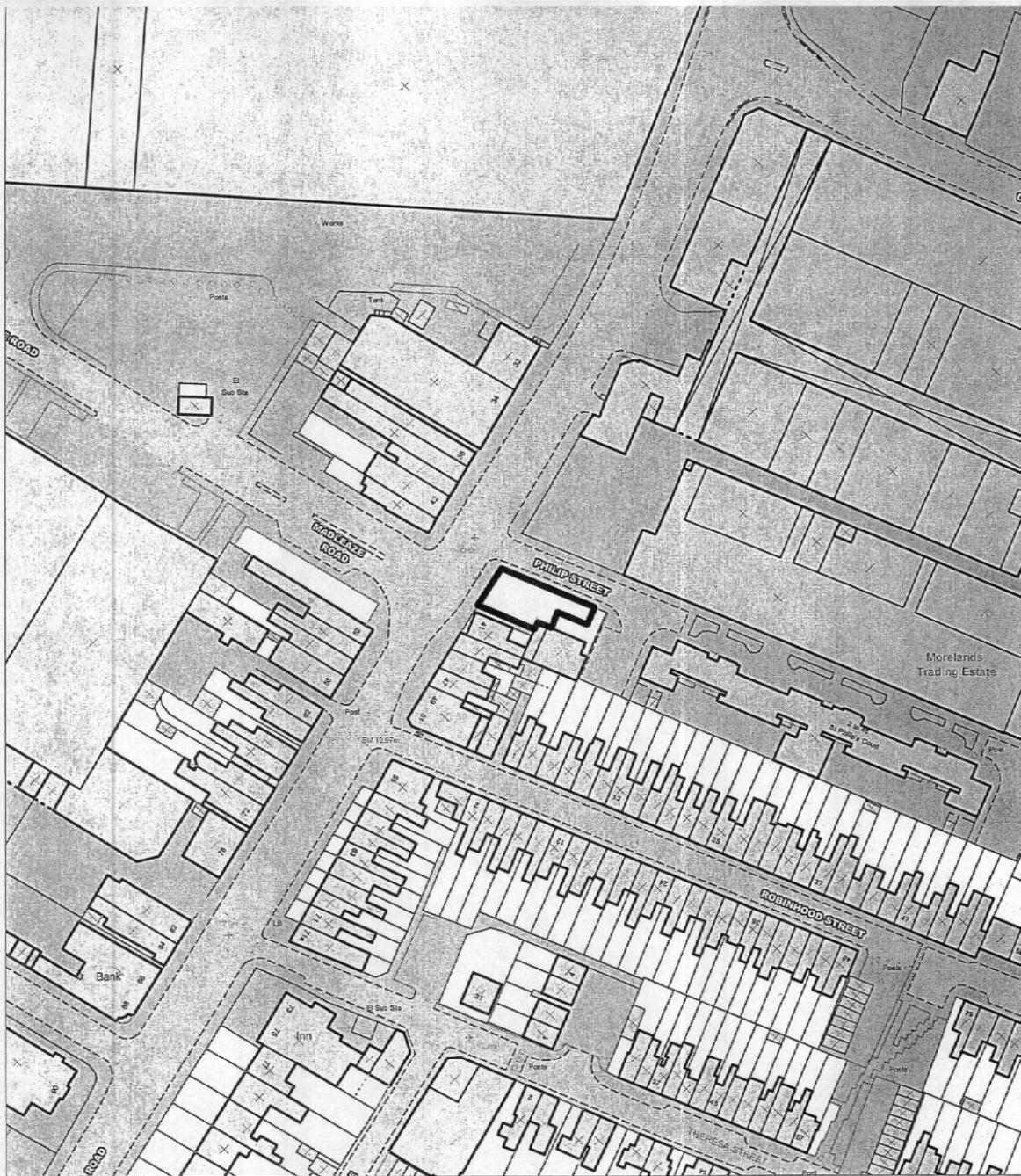
4. Trade Union

No comments.

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005
Gloucester City Council Licensing Policy Statement
DCMS Guidance issued under Section 182 of the Licensing Act 2003

Person to Contact : Anthony D Moseley
Licensing Enforcement Manager
Tel: 396322
E-mail: anthonydm@gloucester.gov.uk



Scale 1:1250



The Robin Hood
39 Bristol Road



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationery Office, (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Gloucester City Council, Licence No.078050, 2000

**Schedule 12
Part A**

Regulation 33,34

Premises Licence

Premises Licence Number

0501579GLPRMV

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Robin Hood
39 Bristol Road
Gloucester
GL1 5SA

Telephone number 01452 556993

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Sale of Alcohol	Everyday	07:00 - 03:00
Plays	Everyday	10:00 - 00:00
Films	Everyday	07:00 - 03:00
Indoor Sporting Events	Everyday	07:00 - 03:00
Live Music	Everyday	11:00 - 02:00
Recorded Music	Everyday	07:00 - 03:00
Performance of Dance	Monday to Wednesday	11:00 - 00:00
Performance of Dance	Thursday	11:00 - 01:00
Performance of Dance	Friday/Saturday	11:00 - 02:00
Performance of Dance	Sunday	11:00 - 00:00
Other	Everyday	11:00 - 03:00
Making Music	Everyday	11:00 - 03:00
Dancing	Everyday	11:00 - 03:00
Late Night Refreshment	Everyday	23:00 - 03:30

Sale of alcohol on New Year's Eve from the start of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day

ENVIRONMENTAL HEALTH

Gloucester City Council Tel 01452 396303 Fax 01452 396340
Herbert Warehouse Email licence.team@gloucester.gov.uk
The Docks Minicom 01452 396161
Gloucester GL1 2EQ www.gloucester.gov.uk



GLOUCESTER
CITY COUNCIL

The opening hours of the premises

Monday	07:00 - 03:30
Tuesday	07:00 - 03:30
Wednesday	07:00 - 03:30
Thursday	07:00 - 03:30
Friday	07:00 - 04:00
Saturday	07:00 - 04:00
Sunday	07:00 - 03:30

Sale of alcohol on New Year's Eve from the start of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day

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

Alcohol is supplied for consumption both on and off the Premise

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Ms Dawn Nicola Flanagan And Mr Daniel Joseph Flanagan
The Robin Hood
39 Bristol Road
Gloucester
GL1 5SA

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

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

Mr Daniel Flanagan
The Robin Hood
39 Bristol Road
Gloucester
GL1 5SA

Business Telephone Number 01452 556993

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

Party Reference: 0501096GLPLC

Licensing Authority: Gloucester City Council

Signature of Issuing Officer:



Date of Determination: 21 September 2005

Date of Issue: 21 October 2005

(See Annexes and Plans attached for conditions relating to this Licence)

Issuing Authority:

The District of Gloucester City Council, The Docks, Gloucester GL1 2EQ

Annex 1 – Mandatory conditions

Where licence authorises supply of alcohol

No supply of alcohol may be made under this licence

- a. at a time when there is no designated premises supervisor in respect of this licence, or
- b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended

Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

Where licence authorises the exhibition of films

Admission of children (persons aged under 18) to the exhibition of films must be restricted in accordance with any recommendations made by the British Board of Film Classification.

Where door supervisor(s) are employed by way of a licence condition

Unless specifically exempted by Section 21(2) of the Licensing Act 2003 any individual who, by virtue of a condition of this licence, must be at these premises to carry out a security activity, must be licensed by the Security Industry Authority.

"Security activity" means an activity to which paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001 applies.

Annex 2 – Conditions consistent with the Operating Schedule

Where a trade organisation such as Pubwatch or LVA exists, that the premises become a member, attend meetings and support the objectives and aims of the group.

That the premise joins the 'Publink' radio system, obtain a radio and remain an active member as long as the scheme exists.

Where a proof of age scheme such as 'Challenge 21' exists, that the premise will adopt that scheme. Where no such scheme exists the premise should clearly display conspicuously, in written form, their age/proof of age related sales policy.

That a CCTV system is installed to the satisfaction of the Police Architectural Liaison Officer. That the system will be maintained in working order and that an agreed image storage protocol will be put in place.

A safe maximum occupancy will be agreed between the premises licence holder and Gloucestershire Fire and Rescue Service, and adhered to.

That a Closed Door Policy will be operated on New Year's Eve from 23.30 hours until 04.00 hours on New Year's Day.

Doorstaff will be employed at the premises at any time that musical entertainment other than background music takes place.

If the premises remain open after midnight, for any licensable activity, doorstaff will be provided from 8.00pm until closing.

Doorstaff will be provided at the rate of 1:100 of occupancy subject to a minimum of 2.

All outside entertainment activity is to be finished at 23:00 hrs, Monday to Sunday.

Staff will be trained on the requirement of the Licensing Act 2003 when they are recruited and given training in 'Drugs Awareness' as part of their induction.

Live or recorded music in the garden will end at or before 23:00.

Recorded music volume will be reduced to background level during the wind down period to create a mood change.

All windows will be kept closed after Midnight.

Door staff are trained to prevent bottles and glasses from leaving the premises.

Notices will be placed prominently at the exits asking customers to leave quietly.

Annex 3 – Conditions attached after a hearing by the licensing authority
NONE

Annex 4 – Plans
As submitted with the application

Gloucester City Council

Schedule 12 Part A

Regulation 33,34

Premises Licence

Premises Licence Number

0601849GLPRMV

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
Robin Hood 39 Bristol Road Gloucester GL1 5SA	
Telephone number	01452 556993

Where the licence is time limited the dates
Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities		
Sale of Alcohol	Everyday	07:00 - 03:00
Plays	Everyday	10:00 - 00:00
Films	Everyday	07:00 - 03:00
Indoor Sporting Events	Everyday	07:00 - 03:00
Live Music	Everyday	11:00 - 02:00
Recorded Music	Everyday	07:00 - 03:00
Performance of Dance	Monday to Wednesday	11:00 - 00:00
Performance of Dance	Thursday	11:00 - 01:00
Performance of Dance	Friday/Saturday	11:00 - 02:00
Performance of Dance	Sunday	11:00 - 00:00
Other	Everyday	11:00 - 03:00
Making Music	Everyday	11:00 - 03:00
Dancing	Everyday	11:00 - 03:00
Late Night Refreshment	Everyday	23:00 - 03:30
Sale of alcohol on New Year's Eve from the start of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day		

ENVIRONMENTAL HEALTH

Gloucester City Council Tel 01452 396303 Fax 01452 396340
 Herbert Warehouse Email licence.team@gloucester.gov.uk
 The Docks Minicom 01452 396161
 Gloucester GL1 2EQ www.gloucester.gov.uk



The opening hours of the premises

Monday	07:00 - 03:30
Tuesday	07:00 - 03:30
Wednesday	07:00 - 03:30
Thursday	07:00 - 03:30
Friday	07:00 - 04:00
Saturday	07:00 - 04:00
Sunday	07:00 - 03:30

Sale of alcohol on New Year's Eve from the start of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day

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

Alcohol is supplied for consumption both on and off the Premise

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Alan Wibby
The Robin Hood
39 Bristol Road
Gloucester
GL1 5SA

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

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

Alan Wibby
The Robin Hood
39 Bristol Road
Gloucester
GL1 5SA

Business Telephone Number 01452 556993

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

Party Reference: 2818/1

Licensing Authority: Birmingham City Council

Signature of Issuing Officer:



Date of Determination: 21 September 2005

Date of Issue: 31 October 2006

(See Annexes and Plans attached for conditions relating to this Licence)

Issuing Authority:

● The District of Gloucester City Council, The Docks, Gloucester GL1 2EQ

Annex 1 – Mandatory conditions

Where licence authorises supply of alcohol

No supply of alcohol may be made under this licence

- a. at a time when there is no designated premises supervisor in respect of this licence, or
- b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended

Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

Where licence authorises the exhibition of films

Admission of children (persons aged under 18) to the exhibition of films must be restricted in accordance with any recommendations made by the British Board of Film Classification.

Where door supervisor(s) are employed by way of a licence condition

Unless specifically exempted by Section 21(2) of the Licensing Act 2003 any individual who, by virtue of a condition of this licence, must be at these premises to carry out a security activity, must be licensed by the Security Industry Authority.

"Security activity" means an activity to which paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001 applies.

Annex 2 – Conditions consistent with the Operating Schedule

Where a trade organisation such as Pubwatch or LVA exists, that the premises become a member, attend meetings and support the objectives and aims of the group.

That the premise joins the 'Publink' radio system, obtain a radio and remain an active member as long as the scheme exists.

Where a proof of age scheme such as 'Challenge 21' exists, that the premise will adopt that scheme. Where no such scheme exists the premise should clearly display conspicuously, in written form, their age/proof of age related sales policy.

That a CCTV system is installed to the satisfaction of the Police Architectural Liaison Officer. That the system will be maintained in working order and that an agreed image storage protocol will be put in place.

A safe maximum occupancy will be agreed between the premises licence holder and Gloucestershire Fire and Rescue Service, and adhered to.

That a Closed Door Policy will be operated on New Year's Eve from 23.30 hours until 04.00 hours on New Year's Day.

Doorstaff will be employed at the premises at any time that musical entertainment other than background music takes place.

If the premises remain open after midnight, for any licensable activity, doorstaff will be provided from 8.00pm until closing.

Doorstaff will be provided at the rate of 1:100 of occupancy subject to a minimum of 2.

All outside entertainment activity is to be finished at 23:00 hrs, Monday to Sunday.

Staff will be trained on the requirement of the Licensing Act 2003 when they are recruited and given training in 'Drugs Awareness' as part of their induction.

Live or recorded music in the garden will end at or before 23:00.

Recorded music volume will be reduced to background level during the wind down period to create a mood change.

All windows will be kept closed after Midnight.

Door staff are trained to prevent bottles and glasses from leaving the premises.

Notices will be placed prominently at the exits asking customers to leave quietly.

Annex 3 – Conditions attached after a hearing by the licensing authority
NONE

Annex 4 – Plans
As submitted with the application

POLICE APPLICATION

