

# LICENSING PANEL MINUTES

## 19 JUNE 2019

**Chair:** \* Councillor Dean Gilligan

**Councillors:** \* Christopher Baxter \* Maxine Henson

\* Denotes Member present

### 57. Appointment of Chair

**RESOLVED:** That Councillor Dean Gilligan be appointed Chair of the Licensing Panel hearing.

### 58. Declarations of Interest

**RESOLVED:** To note that there were none.

### 59. Minutes

(See Note at conclusion of these minutes).

### 60. Licensing Procedures

The Chair asked the Panel Members, officer/s, Responsible Authority/ies and other attendees at the meeting to introduce themselves and then outlined the procedure for the conduct of an oral hearing, which was set out in the agenda.

### RESOLVED ITEMS

### 61. Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR

**In attendance:**

Legal Adviser: Theresa Awosika  
Licensing Officers: Ash Waghela  
Applicant's Representative: James Rankin, Stephen Hill  
Applicant: Nilesh Almani  
Objector: Alan Riley

The Licensing Panel carefully considered all relevant information including:

- Written and oral representations by all the parties;
- The Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives;
- The Guidance issued under section 182 of the Licensing Act 2003 (2018 being the most recent);
- Harrow Council's Licensing Policy;
- Human Rights Act 1998
- The considerations in s.17 of the Crime and disorder Act 1998

Having considered all the information attached to the meeting agenda, supplemental agenda, representations by all parties (including a petition signed by 11 local residents of the area in support of the application for review), photographs and maps, proposed additional conditions and proposals by all the parties put before them, the Panel resolved to adjourn to enable the applicant to monitor and assess the current noise level, if any. The outcome would then be reported to the Panel and all parties at the next hearing which it was agreed be scheduled for Monday 16 September 2019 at 7.30 pm after which the Panel would make a decision on the application.

**RESOLVED:** To adjourn the Hearing to Monday 16 September 2019 at 7.30 pm.

Having reconvened on 16 September 2019 with the same membership and Chair and the following additional representatives being present at the reconvened meeting to those listed above: Stuart Cawthorne (local resident and objector), M J Holley (objector) and Matt Lauezzari (sound engineer, Licensing), the Chair of the Panel stated that an adjournment had been considered necessary at the initial Hearing held on 19 June 2019 to allow the Environmental Health and Licensing team to visit the premises to carry out a review of the works that had been done and to assess the impact of that work on the levels of noise emanating from the premises. All parties confirmed the receipt of all relevant papers relating to this Hearing.

The Panel carefully considered all the relevant information including:

- written and oral representations by all the parties;
- the Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives;
- the Guidance issued under section 182 of the Licensing Act 2003;

- Harrow Council's Licensing Policy;
- Human Rights Act 1998.

Members of the Panel also took into consideration the following, full details of which were set out in the Decision Notice sent to all interested parties:

- (1) noise from a party on the night of the initial Hearing on 19 June 2019 had triggered further complaints. The party had lasted until 4.00 am and there had been unauthorised sale of alcohol on the premises that same night. The Panel was informed that it was a surprise 60<sup>th</sup> Birthday Party and the licensee had not been involved in the planning of this event;
- (2) following monitoring visits by Licensing Officers, the noise had noticeably reduced but it had been noted that the music could sometimes appear louder than the level set on the limiter. Neither the sound expert nor the applicant was able to explain how the sound limiter could have been bypassed;
- (3) on three occasions during August 2019, CCTV recording had not been made available to Licensing Officers. They were informed that it had been corrupted due to a burglary at the premises;
- (4) for reasons of health and safety, the moving of the smoking area was considered to be inappropriate as tyres were stored in a building behind the premises. A condition that loading and unloading by music bands should take place at the rear of the premises was acceptable, including conditions 1-6 on pages 23 to 24 of the agenda. A request for alteration to proposed condition 7 to allow ten customers in the outside smoking area at any one time was made by the licence holder's representative;
- (5) regular visitors to the premises were within the age range of 30 – 50 years old and the busy nights were Fridays and Saturdays. The licence holder's representative alleged that there were other places in the area which attracted customers outside this age range where the noise set out in the log sheets could have emanated from;
- (6) while residents had noticed a reduction in the noise level, the bass of the music from the club could be heard at all times when the premises was open. A resident requested that the premises licence be restricted to 1.00 am. Another resident alleged that the noise from people when exiting the premises continued to persist. An objector urged the Panel to impose a reduction in opening hours and not to modify proposed condition 7;
- (7) the opening hours of the premises not be reduced as requested by the licensee's representative on the basis that it had been the first time that the premises licence had been brought for review. Following complaints, immediate remedial action had been taken and improvements made which had led to a substantial reduction in the

noise levels emanating from the premises. Conditions 1-6 proposed on pages 23/24 of the main agenda and 5 other proposed on the supplemental agenda were acceptable.

The Panel considered its options under 11.19 to 11.23 of the Guidance issued under section 182 of the Licensing Act 2003 (2018 being the most recent) determined that the Licensing objective of Prevention of Public Nuisance had been undermined.

The Panel was pleased to learn that improvement work to the premises had resulted in a reduction of noise from the music but was of the view that the above modification of Condition(s) was necessary to address ongoing issue of noise which impacted on the licensing objectives.

The Panel was of the view that the following decision was an appropriate and proportionate response to help address the concerns that had instigated this Review. The financial impact of temporary reduction in hours for three months was carefully considered by the Panel, which had concluded that these issues ought to be balanced against the effect of noise on local residents and the need to ensure that the licensing objectives were not compromised. The Panel believed that a temporary reduction in the licensing hours for recorded and live music; late night refreshment and sale of alcohol on Friday and Saturday nights might deter the licensee from allowing the problems that gave rise to the Review from happening again.

**RESOLVED:** That, in order to promote the licensing objectives, the following steps be taken in relation to the premises known as Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, HA8 6LR:

**For a period of three months, the following timings be applied to all licensable activities and hours open to the public:**

Sunday – Thursday	- 12:00 to 23:30 hours
Friday – Saturday	- 12:00 to 01:00 hours (the following day)

**The following Conditions to be permanently added to the Licence:**

- (1) at the end of trading the pavement from the building line to the kerb edge immediately outside the premises, including the gutter/channel, at its junction with the kerb edge, shall be swept and/or washed. Litter and sweepings collected shall be stored in accordance with the approved refuse storage arrangements;
- (2) notices shall be prominently displayed at any area used for smoking, requesting patrons to respect the needs of local residents and use the area quietly;
- (3) loudspeakers shall not be located in the entrance lobby or outside the premises building. Loudspeakers and other sound amplification equipment must not be directed outwards towards any street or installed externally to the premises. Section 177A of the Licensing Act 2003 will not apply to this condition;

- (4) appropriate automatic noise control device must be fitted to all amplified sound equipment.

The device must be:

- a) set so that the volume of any amplified sound emanating from the premises did not cause a public nuisance. A Compliance Certificate must be supplied to the licensing authority for the installation of the unit before any regulated entertainment was carried out stating the operating parameters of the unit.
  - i. The installation must be carried out by a competent/qualified person and submitted to Licencing authority for approval. The compliance certificate should contain the following: Min. 5 minute LAEQ

Frequency analysis between 200Hz – 35Hz

- ii. The devices must be fitted to all power outlets to the premises (to the main distribution unit). The premises Supervisor must ensure that any amplified sound from the premises does not cause a public nuisance by ensuring that amplified sound was inaudible at the boundary of any properties where the occupiers were likely to be sensitive to noise. Section 177A of the Licensing Act 2003 did not apply to this condition (to protect licensing objectives regarding public nuisance).
- (5) the licensee shall comply with all reasonable crime prevention and/or public safety measures that might be required by the Licensing Authority and/or the Environmental Health Officer and/or the Metropolitan Police and which were consistent with the premises operating schedule;
  - (6) at least one First Aider trained to deal with problems associated with alcohol and drugs shall be on duty when premises were open for licensable activities;
  - (7) no more than 6 customers were permitted in the outside smoking area at any one time;
  - (8) bands were to load and exit through the rear of the premises;
  - (9) the CCTV system was to be maintained and operated in good order and to the satisfaction of the Metropolitan Police's reasonable requests. The medium upon which the images were recorded should be clearly identifiable, stored securely and retained for a period of not less than 31 days and should be made available to the Police and Licensing Authority Officers immediately upon request;
  - (10) such footage must be provided in an immediately viewable format and must include any software, etc., which was required to view the

footage. Any discs, portable drives or other storage media onto which the footage was transferred must be provided by the premises;

- (11) a member of staff who was trained to operate the system and supply the footage must be present at the premises at all times when licensable activities were taking place;
- (12) the Designated Premises Supervisor or person authorised by him must ensure that the CCTV system was checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time and date;
- (13) all staff were to undertake training with respect to the Licencing Act 2003, with respect to the effects of alcohol and, in addition, the refusal of alcohol to people already under the influence. All training should be recorded and staff updated as required. Logs of training would be provided immediately on request from an officer of the Metropolitan Police or the Licencing Authority.

**REASONS:** As detailed in the Decision Notice sent to all interested parties and set out in brief in the preamble above.

### **Right to Appeal**

Any party aggrieved with the decision of the Licensing Panel on one or more of the grounds set out in Schedule 5 to the Licensing Act 2003 may appeal to the Magistrates' Court within 21 days of notification of this decision.

This determination in accordance with section 52(11) of the Licensing Act 2003 does not take effect:

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, the disposal of the appeal.

(Note: The meeting have started at 7.30 pm on 19 June 2019, adjourned at 9.50 pm and reconvened at 7.30 pm on 16 September 2019, closed at 8.45 pm).

(Signed) COUNCILLOR DEAN GILLIGAN  
Chair

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chair for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chair and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].