



Licensing Panel

Minutes

4 July 2023

Present:

Chair: Councillor June Baxter

Councillors: June Baxter Maxine Henson
Govind Bharadia

11. Appointment of Chair

RESOLVED: That Councillor June Baxter be appointed Chair of the Licensing Panel Hearing.

12. Declarations of Interest

RESOLVED: To note that there were no declarations of interest made by Members.

13. Minutes

(See Note at conclusion of these minutes).

14. 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.

15. Baadshah Lounge, 439 Alexander Avenue, Harrow, HA2 9SE

The Licensing panel hearing was held in person and in making its decision, the Licensing panel carefully considered the application and all written representations, as set out within the report and the verbal representations made at the hearing.

The Licensing 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

The application was for a new premises licence for a restaurant which would also operate as members lounge during later hours (if the License were to be granted). During the consultation period, the Applicant, Kunjal Shaikh ("the Applicant") had agreed proposed conditions with the police which also included a change to the hours sought for licensable activities to end at 03:00am instead of the requested 04:00am in the application. In addition, as part of the consultation process, the authority received a representation from Licensing Enforcement acting in its capacity as a responsible authority. The representation sought further information and documents relied upon within the Application. The Authority also received two representations from local residents / businesses ("the Objectors") concerned predominantly with the prevention of crime and disorder and the prevention of public nuisance, citing a possible increase in antisocial behaviour, public nuisance, a risk to public safety and concerns with the hours sought in the application.

The Applicant attended the hearing and was represented by a Mr Panchal ("the Agent"). Mr Alan Riley, Licensing Officer, attended the hearing in his capacity as the responsible authority, Mr Ally Darwood, Licensing Officer in his capacity as the licensing authority and one of the Objectors was also present.

The Agent explained that the Applicant has had a personal licence for the past three years and operates two other 24-hour premises in other boroughs without any issues of breach. The current proposed Application seeks to operate as a members lounge beyond the hours of midnight with a capacity of between 50-60 people at any one time. The Agent submitted further documents in response to Mr Riley's representation during the hearing and in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 Paragraph 18, permission of all parties present was sought and no objections were raised. The further documents comprised of a 'Dispersal Policy', a 'Specimen Constitution,' a 'Membership Application Form' and training literature / manual, all of which were said to support the Applicant and premises in meeting the licensing objectives. The Agent confirmed additional provisions would be implemented including placing notices/posters around the premises relating to people leaving the premises quietly to prevent public nuisance and implementing the challenge 25 policy. The Agent added that the training manual would have the usual right to work checks and the regular training would be logged along with the premises holding an incident log and refusal log. The Agent confirmed the Applicant would also be happy to adopt

the suggested condition in the representation form Mr Riley for all licensable activities to cease in the garden area at 22:30.

The Panel sought to clarify whether the Applicant had considered the impact of noise level to the residents above the Premises and the impact of parking and the residents close by. The Agent confirmed that they had spoken with residents above the premises and that the premises already has a noise limiter in place to prevent any issues from noise nuisance. There was also said to be parking available in the area and that the Applicant would make use of SIA security present to further alleviate concerns of public nuisance. In addition the agent added that any members would be expected to behave in a respectable manner and any members who created any nuisance would lose their membership and not be allowed back. With reference to the plan within the Application, the Applicant confirmed that the premises comprised of two floors and that music was played in the basement. In response to further queries from the Panel, the Agent confirmed that members are allowed to bring one guest, and details of the guest would be recorded and that they have agreed with the Police that if required, the details will be made available to the Police.

The Panel further queried how busy the business was generally to which the Applicant confirmed the business was moderate and that they were seeking new ways to add business given the effects of the pandemic and create an area for people to socialise.

The Objector present at the hearing raised queries of whether the residents were aware of the application. The Agent confirmed that Notice in accordance with the Licensing Act 2003 was put out in the usual manner.

The Objector also raised concerns of disturbance from the noise and a possible increase in anti-social behaviour and whilst he was aware that generally it tends to be busier on Fridays and Saturdays, he did not see a reason for the extensive hours sought. Being a restaurant owner and local resident himself, he stated he operates until 11pm, despite having a licence for longer, to minimise any disruption to residents.

The Panel considered the Statutory Guidance states the following:

“Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

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Public Nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area

around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

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2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

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2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.”

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2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.”

The Panel also considered the London Borough of Harrow Statement of Licensing Policy which states:

“7. Live Music, Dancing & Theatre

7.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community particularly for children.

7.2 When considering applications for such events and the imposition of conditions on licences, the Licensing Authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives. The Licensing Authority would wish to avoid, so far as possible, measures which deter live music, dancing and theatre.

7.3 The licensing Authority draws all applicant's attention to the Live Music Act and other similar deregulations."

Having taken all the representations into account, the conditions recommended by the Police, the representations from the Objectors, the statutory provisions and the Revised Guidance issued under section 182 of the Licensing Act 2003 and the Council's Policy, the Panel noted the conditions agreed between the police and the Applicant, and that the offer to accept the conditions proposed would also go some way to addressing any public nuisance issues and possible anti-social behaviour. However, the Panel were concerned that the hours sought were extensive and could add impact compliance with the licensing objectives. Despite the suggested use of a noise limiter, the Panel were concerned that the extensive hours sought would cause a nuisance to local residents and only exasperate any existing issues of antisocial behaviour within the area. The Panel therefore decided to grant the licence but restrict the hours sought within the application as set out below, which it considers reasonable to mitigate against concerns over public nuisance and crime and disorder.

	Provision of live music, Provision of recorded music, Performance of dances, Provision of films,	Retail sale of alcohol	Late Night Refreshment	Hours open to public
Sunday to Thursday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00
Friday and Saturday	10:30 – 01:00*	10:30 – 01:00*	23:00 – 01:00*	10:30 – 01:30*

*Continues into the following day

The Panel directed that the conditions as proposed by the Police are to be added to the licence along with the proposed conditions within the Application (where applicable and save for any duplicated or mirrored conditions). In this regard in order to read better and to conform better with the granted licence, the Panel amended some of the proposed conditions as follows:

- Re-wording the police proposed condition regarding use of the beer garden, the amended and implemented condition is shown as Condition 13 above.
- Replacing the Police's proposed condition relating to 'Challenge 25' with the Applicant's similar proposed condition which are implemented as conditions 14 and 15 above.
- Re-wording the Police's condition regarding the use of SIA staff, the amended condition is shown as Condition 16 above.
- Re-wording the Police's condition regarding re-entry, the amended and implemented condition is shown as Condition 18 above.
- Adding the conditions proposed by the Applicant at Conditions 19-20.

- Adding and re-wording the Applicant's proposed condition regarding the door entry system, the amended condition is shown as Condition 21 above.

The Panel also directed that an additional condition requiring the use of a noise limiter be added which is noted as Condition 22 above.

The Licensing panel believes that the measures taken above in terms of the licensable area, the conditions to be applied to the licence, and the hours for licensable activities and hours open to the public, are appropriate and proportionate in the circumstances to promote all the licensing objectives.

RESOLVED: That the Premises Licence be granted subject to the following:

Hours Open to the Public and hours for Licensable Activities:

	Provision of live music, Provision of recorded music, Performance of dances, Provision of films,	Retail sale of alcohol	Late Night Refreshment	Hours open to public
Monday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00
Tuesday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00
Wednesday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00
Thursday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00
Friday	10:30 – 01:00*	10:30 – 01:00*	23:00 – 01:00*	10:30 – 01:30*
Saturday	10:30 – 01:00*	10:30 – 01:00*	23:00 – 01:00*	10:30 – 01:30*
Sunday	10:30 – 23:30	10:30 – 23:30	23:00 – 23:30	10:30 – 24:00

*Continues into the following day

Conditions

1. All staff shall receive regular training at least twice a year in regard to the responsibilities under the Licensing Act 2003 and in particular, about age restricted products. Records of the training will be kept and made available to officers of the licensing authority and police immediately upon request
2. The Premises Licence Holder must ensure that:
 - (1) the CCTV system to be maintained and operated in good order and to the satisfaction of the Metropolitan Police's reasonable requests.
 - (2) the medium upon which the images are recorded will be clearly identifiable, stored securely and retained for a period of not less than 31 days and will be made available to Licensing Officers of the local authority and Police immediately upon request where a request is made in accordance with the Data Protection Acts.

- (3) such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which the footage is transferred must be provided by the premises.
- (4) a member of staff who is trained to operate the system and supply the footage must be present at the premises at all times when licensable activities are taking place.
- (5) the CCTV system is 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.
3. Customers will not be allowed to take alcohol in open containers outside the curtilage of the premises.
4. (1) The Designated Premises Supervisor shall be responsible for maintaining a record for at least 12 months of "Significant Incidents" that occur on the Premises whilst licensable activities are being provided.
- (2) " Significant Incidents" to be recorded include (but are not limited to):
- a) failures of or faults with the CCTV system
 - b) refusals of alcohol sales
 - c) calls to the police arising from illegal drugs on the Premises
 - d) other matters that may affect the licensing objectives
 - e) assaults or other injuries whether or not police or medical assistance is required
 - f) CCTV supplied to Police and Licensing Authority officers
 - g) seizures of false identification
5. A written authority from the DPS will be kept at the premises where he authorises any member of staff to sell alcohol on his/her behalf. This authority will be produced immediately upon the request of an officer of the police or the licensing authority
6. There shall be a written dispersal policy for the premises available on request to the licensing authority and licensing officer for the Metropolitan Police for Harrow.
7. Prominent, clear and legible notices shall be displayed at the entrance/exit requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
8. The telephone number of a local taxi/private-hire vehicle (mini-cab) firm must be prominently displayed for customers to easily see.
9. No glass waste including bottles shall be handled externally between 23.00 and 07:00 hours.

10. The Premises Licence Holder must ensure that
 - (1) no recorded music is audible above the ambient background level of noise when measured at the nearest residential property to the premises;
 - (2) external noise levels must be regularly monitored and appropriate action taken to reduce noise levels where necessary
11. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
12. 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.
13. Use of the beer garden by customers, and all licensing activities in the beer garden, are to cease by 22:30.
14. A Challenge 25 Policy will be in force where any person looking under the age of 25 shall be asked to provide their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters displayed where alcohol is sold.
15. The only acceptable ID will be those with photographic identification documents, including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
16. Subject to a risk assessment, SIA door staff will be used when required.
17. A register / log will be kept on site detailing the names and badge numbers of all SIA including the dates and times that they are on duty. This will be kept up to date by the DPS and made available upon request to the Police and licensing authority.
18. There will be no entry/re-entry to the premises after 00:00 save to allow customers who have gone outside to smoke to re-enter the premises.
19. Membership can only be obtained by completing an application form supplied by the premises and must be accompanied by proof of address. Details of these records will be made available to authorised officers of the Licensing Authority and the Metropolitan Police immediately upon request.
20. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.
21. A door entry system with a camera will be in operation to identify members before entry.

22. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an Environmental Health Officer to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of an Environmental Health Officer or Licensing Authority authorised officer. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only and shall not be accessed by any other person. The limiter shall not be altered without prior agreement of the Environmental Health Officer.

(Note: The meeting, having commenced at 7.00 pm, closed at 7.44 pm).

(Signed) Councillor June Baxter
Chair