

Meeting:	Licensing Panel
Date:	11 July 2005
Subject:	Application for variation of hours at Horseshoe Bar, Eastcote Lane, South Harrow during Transitional period
Responsible Officer:	Chief Environmental Health Officer
Contact Officer:	P Sivashankar, Service Manager, ext 6413
Portfolio Holder:	Councillor Philip O'Dell
Key Decision:	No
Status:	Public

## **Section 1: Summary**

### **Decision Required**

Members are asked to determine the application in accordance with the guidance in Section 2.5.

### **Reason for report**

The application for a conversion and simultaneous variation by the Horseshoe Bar, 326 Eastcote Lane, South Harrow has received representations. As per the Council's Licensing Policy and Delegation of Licensing Functions, all applications with unresolved representations are to be dealt by the Licensing Panel.

### **Benefits**

The hearing provides the applicant, persons making the representations and the Licensing Authority an opportunity to engage in constructive dialogue to determine the application in an open public forum.

### **Cost of Proposals**

None

### **Risks**

If any party is aggrieved with the decision or is believes that a fair hearing iss

not provided, they can apply to the magistrates Court for a re-hearing.

### Implications if recommendations rejected

N/A

## **Section 2: Report**

### 2.1 Brief History

2.1.1 Application has been made by Mr Leo Mullane of 326 Eastcote Lane, South Harrow, for a Premises Licence for the Horseshoe Bar, 326 Eastcote Lane, South Harrow. A copy of the application is attached to this report.

2.1.2 The application seeks the following changes to the existing Justices Licence hours, which, if granted, will take effect from 24<sup>th</sup> November 2005:

Sale of alcohol, Recorded Music and Live Music performed by no more than 2 entertainers to extend from 11pm to the hours listed in the table below:-

SALE BY RETAIL OF ALCOHOL			LIVE MUSIC, not more than two performers			RECORDED MUSIC		
DAY	START	FINISH	DAY	START	FINISH	DAY	START	FINISH
MON	1000	0030	MON	2100	0000	MON	1000	0100
TUE	1000	0030	TUE	2100	0000	TUE	1000	0100
WED	1000	0030	WED	2100	0000	WED	1000	0100
THU	1000	0030	THU	2100	0000	THU	1000	0100
FRI	1000	0130	FRI	2100	0100	FRI	1000	0200
SAT	1000	0130	SAT	2100	0100	SAT	1000	0200
SUN	1100	0030	SUN	2100	0030	SUN	1100	0100

Hours premises are open to the public		
DAY	START	FINISH
MON	1000	0100
TUE	1000	0100
WED	1000	0100
THU	1000	0100
FRI	1000	0200
SAT	1000	0200
SUN	1100	0100

Sale of alcohol on Christmas Eve and Boxing day until 0200 the following morning and the premises to close at 0230 on these days;

Live Music on Christmas Eve and Boxing Day until 0130 the following morning;

The current permitted hours are 11am to 11pm Monday to Saturday and Midday to 10:30pm on Sundays with 20 minutes drinking up time. The premises are also allowed to provide musical entertainment by up to 2 performers under the Licensing Act 1964, a right not transferred automatically under the Licensing Act 2003.

### 2.1.3 The Premises:

The premises are on Eastcote Lane, South Harrow, situated at the junction of Kings Road and Eastcote Lane. The premises are of solid construction and whilst not purpose built for entertainments this Division has not received any complaints regarding noise in the past year. The premises benefit from a garden to the side next to Kings Road

- 2.1.4 The Planning Authority has notified this Section that the hours applied for are outside the permitted hours under the Planning Permission granted for this premises. The hours granted are 1030 to 2300 on Mondays to Saturdays and 1030 to 2230 on Sundays

As per the Licensing Policy the applicant has been informed of this discrepancy and asked to provide reasons for the departure from the Licensing policy (para 8.5-8.8 in the Licensing Policy)

## 2.2 Representations

- 2.2.1 The application has received representations from 7 local residents and from one Responsible Authority (Environmental Protection) in Community Safety Services, sighting potential increase in public nuisance. Copies of these representations are attached to this Report.
- 2.2.2 Prevention of Public Nuisance is one of the four Licensing Objectives and the Council's Licensing Policy deals with this Objective under Section 5 on page 6 and suggests areas of consideration in Annex F to the Licensing Policy.

## 2.3 Consultation

The application was advertised in accordance with the Regulations under the Licensing Act 2003. The consultation period ended on 23<sup>rd</sup> June 2005. This Authority has received 8 representations in total under the prevention of public nuisance objective as stated in section 2.2.1.

## 2.4 Financial Implications

None.

## 2.5 Legal Implications

2.5.1 Having considered the representations from all parties, the Panel has to determine the application for the variation of the converted premises licence. The legislation does not list the grounds on which the Panel can refuse and/or grant an application for a licence. The legislation does allow for the imposition of conditions, restrictions, etc. but again offers no guidance as to the type of condition that may be imposed. It is clear that any additional conditions would have to be practical, enforceable and meet the rules of natural justice and the promotion of the four Licensing Objectives.

2.5.2 Options available to the Panel:

a. To grant the application as it stands. Any licence granted would be subject to conditions relating to the Operating Schedule attached to the Application.

b. To grant the Licence in light of any evidence presented at the hearing, from both the interested party and the applicant, subject to:

i) The conditions mentioned in the operating schedule being modified to such extent as the authority considers necessary for the promotion of the licensing objectives and/or to limit the period of validity of the grant, and

ii) Any condition which, must under section 19, 20 or 21 (Mandatory Conditions) of the Licensing Act 2003 be included in the licence, and

iii) To exclude from the scope of the licence any of the licensable activities to which the application relates,

c. To reject the application.

2.5.3 It should be noted with all options that;

i). Clear reasons would have to be given to the applicant and to the persons/Responsible Authorities who made representations if the application were granted, refused or, if additional conditions were imposed; and

ii). The applicant and/or the interested party/Responsible Authorities would have the right of appeal to a Magistrates Court.

2.5.3. In addition to determining the application in accordance with the legislation, Members must also have regard to the provisions of the Human Rights Act 1998.

2.6 Equalities Impact

N/a

### **Section 3: Supporting Information/ Background Documents**

Application

Representations

Mandatory Conditions that would be attached to the licence if granted.

Conditions drawn from the Operating Schedule provided by the Applicant-Annex

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#### **Annex 2 – Conditions consistent with the operating Schedule**

##### **General**

The premises will be closed to public after the expiration of 30 minutes from the last permitted hour for the sale of alcohol.

##### **The prevention of crime and disorder**

The external areas of the premises will be illuminated during all times the premises is open to the public.

The premises is provided with CCTV and operated in line with the Harrow Police's guidelines inside and outside during the premises open to public

##### **Public Safety**

None offered

##### **The prevention of public nuisance**

Patrons will be asked to leave quietly

##### **The protection of children from harm**

Children are allowed only with their parent or guardian

## **MANDATORY CONDITIONS**

### **19 Mandatory conditions where licence authorises supply of alcohol**

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **20 Mandatory condition: exhibition of films**

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where-

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

### **21 Mandatory condition: door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.