

LONDON BOROUGH OF HARROW

Meeting:	LICENSING PANEL
Date:	29th July 2003
Subject:	APPLICATION FOR PROVISIONAL ANNUAL PUBLIC ENTERTAINMENTS LICENCE M-BARGO, 16 COLLEGE ROAD, HARROW. (Formerly known as Bar fka and VIP Bar)
Key decision:	
Responsible Chief Officer:	CHIEF ENVIRONMENTAL HEALTH OFFICER
Relevant Portfolio Holder:	COUNCILLOR PHIL O'DELL
Status:	PART 1 (PUBLIC)
Ward:	GREENHILL
Enclosures:	APPLICATION AND POLICE OBSERVATIONS

1. Summary

- 1.1 This report gives details of an application for a provisional public entertainment licence and gives guidance for the Licensing Panel to assist in reaching a decision. There are no objections to the application, however the Police have made observations on the application. The application is referred for the decision of the Panel as the hours applied for are in excess of the Council's standard hours (11pm). The report also gives details of the provisional licence procedure.

2. Recommendations (for decision by the Panel.)

- 2.1 **Members are asked to determine the application in accordance with the guidance in section 9, below.**

3. Consultation with Ward Councillors

- 3.1 The application was advertised in accordance with the Council's Rules governing applications and details of the application were attached to the Planning Application lists.

4. Policy Context (including Relevant Previous Decisions)

- 4.1 The application is for a provisional public entertainment licence, although the premises have been licensed for public entertainments on two separate occasions. In 2001, as

Bar fka and prior to this for a few years in the early 1990's as the VIP Bar. Following both of these occasions the licences were not renewed.

5. Relevance to Corporate Priorities

- 5.1 While this report is in response to a request for a new licence, the public safety and environmental control aspects of licensing address corporate issues. In particular the quality of the environment, promotion of leisure pursuits and a prosperous local economy.

6. Background Information

- 6.1 Application has been made to this Council for the grant of an Annual Licence for Public Music and Dancing on weekdays and Sundays for the M-Bargo, 16 College Road, Harrow. The application has been made by Mr Pierre the proprietor of the premises. The following table shows the hours of opening in the application. The hours are extensions beyond the normal finish hour of 11pm within the Council's Rules of Management. A copy of the application is appended to this report.

Mon.	Tues.	Wed.	Thur.	Fri.	Sat.	Sun.
2.00	2.00	2.00	2.00	2.30	2.30	1.00

- 6.2 The premises are undergoing a major refurbishment, with much work still to be completed. Accordingly the application is to be treated as an application for a provisional licence. A provisional licence application enables an applicant to resolve any objections, or similar issues prior to significant expenditure on the fabric of the building. A provisional licence only comes into full operation when formally confirmed by the Council. In this way the Council retains final control over the technical and safety provisions in the premises whilst the applicant is aware of any restrictions that will apply to the full licence. Further information on provisional licences is given in section 8 below. Applicants only tend to use the procedure for larger developments and in this Borough the procedure is used infrequently.
- 6.3 The applicant seeks a capacity of up to 300 persons and works are proposed to make the premises suitable for this number. If there are changes to the final layout within the premises, that might increase the final occupation levels, the applicant would have to apply to the Council to vary the numbers permitted by the licence. Such an application would have to be advertised in accordance with the Council's rules. The applicant would not have to advertise any reduction in capacity necessary to meet the Council's technical requirements.
- 6.4 The Chief Planning Officer has not raised any planning objections to the proposed opening hours of the premises.
- 6.5 No objections to the application were received, either from local residents, or from the London Fire and Emergency Planning Authority. However, the Metropolitan Police raised observations in five areas covering opening hours to last entry conditions. Further to a conciliation meeting at the Council offices, Mr Pierre agreed to take on board matters raised by the Metropolitan Police except condition regarding the last entry. The Metropolitan Police suggest that no entries should be allowed after midnight. The Police letter and the statement regarding the agreed position are attached to this report.

6.6 The application is referred for the decision of the Panel as the hours applied for are in excess of the Council's standard hours (11pm). The applicant has been invited to the Panel meeting.

7. The Premises

7.1 Location

The premises are in the main commercial part of central Harrow, although there is some domestic accommodation in the area. At least one flat is next door over the retail premises. There is no parking on-site for patrons.

7.2 Construction

The premises are of solid construction and extensive works are to be undertaken to increase the size of the premises and improve facilities. The applicant has been advised in general terms of the works necessary for the premises to meet the requirements of the Council's Technical Regulations regarding construction, etc. The premises will have to meet the requirements of the Council's Regulations before it could commence trading. Sound proofing work would be carried out to the whole of the premises to comply with Environmental Health and Planning requirements.

7.3 Complaint History

In the period from 2000 to the closure of the premises for refurbishment in 2002, there had been three complaints about loud music from the premises. These were resolved at the time.

8. Provisional Licences

8.1 Where an application is received for premises that are in the course of construction and the Council is satisfied that the premises, if completed in accordance with submitted plans, would be suitable for the grant of a licence, the Council may grant a provisional licence. The provisional licence is granted subject to a condition that it shall be of no effect until confirmed by the Council. The Council must confirm any provisional licence if and when they are satisfied that the premises have been completed in accordance with the plans, or in accordance with those plans as modified with the approval of the Council, and that the licence is held by a fit and proper person.

8.2 A provisional licence is treated in the same way as any other licence and is subject to annual renewal.

8.3 When the construction of the premises is complete the provisional licence would be reported to the Panel to be confirmed and brought into operation.

9. Determination of the Application

9.1 Having considered the application and any additional information provided by the applicant, the Panel has to determine the application. The legislation does not list the grounds on which the Panel can refuse an application for the grant of a licence, merely stating that the Panel has discretion to grant or refuse. 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.

9.2 Options available to the Panel:

a. To grant the application as it stands for a full 12 months. Any licence granted would be subject to the Council's Rules of Management.

b. To grant the Licence and, in light of the evidence presented at the hearing, from the applicant and from officers, to place additional conditions upon the licence. Licence conditions may relate to the management of the premises or technical provisions at the premises. In circumstances that appear appropriate the Panel may grant the licence for a period less than 12 months.

c. To refuse to grant the licence.

9.3 In accordance with the provisional licence procedure, it is recommended that with options (a) and (b) that the licence is granted subject to a condition that the licence shall be of no effect until confirmed by the Council.

9.4 It should be noted with options (b) and (c) that;

i. clear reasons would have to be given to the applicant if the licence were refused or, if additional conditions were imposed, or a licence were granted for less than twelve months; and

ii. the applicant would have the right of appeal to a Magistrates Court.

10. **Consultation**

10.1 The application was advertised in accordance with the Council's rules governing applications.

11. **Finance Observations**

11.1 There are no financial implications for the Council relating to the consideration of this application by the Panel.

12. **Legal Observations**

12.1 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.

13. **Background Papers**

13.1 Premises File for M-Bargo,16, College Road, Harrow.

13.2 London Borough of Harrow, Rules of Management and Technical Regulations for Places of Public Entertainment.

14. Author

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