

REPORT FOR: LICENSING PANEL

Date: 14 June 2016

Subject: Application for a variation to the premises licence for Pinner Lounge, 14A Broadwalk, Pinner Road, North Harrow, Middlesex HA2 6ED

Responsible Officer: Tom McCourt - Corporate Director – Community Directorate

Exempt: No

Enclosures: Current Premises Licence (appendix 1)
Plan of the premises (appendix 2)
Location (GIS) Map (appendix 3)
Representations (appendix 4)

Section 1 – Summary

An application has been received to vary the premises licence for Pinner Lounge, 14A Broadway, North Harrow to extend the hours for sale of alcohol and late night refreshment to 0100 hours on Friday and Saturday mornings and midnight on other nights. Representations have been received from two responsible authorities and one other person.

Representations received

From	Relevant Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	Yes - Representation on grounds of prevention of nuisance
Trading Standards	No representations received
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
Metropolitan Police	No representations received
Licensing authority	Yes - Representations on grounds of prevention of nuisance

Representations from other persons

From	Relevant Representations details
Other persons	Yes - Representations received on grounds of prevention of nuisance

Section 2 – Report

2.1 The premises licence holder, Mr Narendra Patel, has applied to vary the premises licence in respect of Pinner Lounge, 14A Broadwalk, Pinner Road, North Harrow, Middlesex HA2 6ED.

2.2 Licensable activities

The table below sets out the current licensable activities and the variations being sought:

Day	Current licence			Variation applied for		
	Hours open to public	Alcohol sales (on and off-premises)	Live and recorded music	Hours open to public	Alcohol sales (on and off-premises)	Late night refreshment
Mon	1000 - 2330	1000 - 2330	None	1000-0030	1000 – 0000	2300 - 0000
Tues	1000 - 2330	1000 - 2330	None	1000-0030	1000 – 0000	2300 - 0000
Weds	1000 - 2330	1000 - 2330	None	1000-0030	1000 – 0000	2300 - 0000
Thur	1000 - 2330	1000 - 2330	None	1000-0030	1000 – 0000	2300 - 0000
Fri	1000 - 2330	1000 - 2330	1800 – 2300	1000-0100	1000 – 0100	2300 - 0100
Sat	1000 - 2330	1000 - 2330	1800 – 2300	1000-0100	1000 – 0100	2300 - 0100
Sun	1000 - 2330	1000 - 2330	None	1000-0000	1000 – 0000	2300 – 0000

Notes:

(1) Hours showing past midnight are going into the following day.

(2) Live and recorded music is exempt from the need for a licence in premises of this size between 0800 and 2300 hours.

2.3 Description of premises

The premises are described on the application form as a restaurant with bar facilities.

2.4 From officers' observations the premises operates as an Indian restaurant and bar. Live Bollywood-style music is provided at the premises. It is a single-room restaurant, with a bar and a small stage. The premises can probably accommodate 75 - 100 people.

2.5 The premises are located on the A404 Pinner Road. The premises are located on the ground floor of a shopping parade with retail uses either side; residential accommodation is above those premises and directly across the road. There is a licensed restaurant nearby at 28 Broadwalk and a pub at 25 Broadwalk. A late-night takeaway next door operates until similar hours as the applicant's current hours. The rear of the premises leads out onto a private service area and then onto North Harrow public car park.

- 2.6 Licensing history
The premises have been licensed since at least 1999 under previous legislation. The applicant has been the premises licence holder since 2 December 2015 when the licence was transferred to him.
- 2.7 Designated premises supervisor
Mr Narendra Patel since 17 May 2016
- 2.8 Details of application
Received: 25 April 2016
Newspaper advertisement: 5 May 2016 (Harrow Times)
Closing date for representations: 24 May 2016
- 2.9 Representations
Representations set out at appendix 4 have been received from the Environmental Health authority, the licensing authority, and one other person, a local resident.
- 2.10 The representation from the other person sets out in detail the effect of the current licensable activities on her and her family. In particular it describes the impact that late night noise has had on her family life from both amplified music and non-amplified speech.
- 2.11 The representation from Environmental Health sets out monitoring of the premises and steps that have been requested of the premises licence holder during much of this year to mitigate any nuisance, culminating in the service of a statutory abatement notice on 25 February 2016. It sets out diaries submitted by other person that shows the effect on her and her family.
- 2.12 The representation from the licensing authority sets out communications with the premises licence holder and breaches of the premises licence and the Licensing Act.
- 2.13 Officers' observations
The applicant has suggested in his operating schedule that the additional hours' trading will allow for a gradual and peaceful departure of patrons from the venue.
- 2.14 Members will note that the proposed variation does not include a winding-down or drinking-up time on Fridays, Saturdays and Sundays, with alcohol and late night refreshment on those days being available right up until the premises closing time (although entertainment, live and recorded music, if provided would end by 2300 hours on those days). This is in contrast to Monday to Thursday when a thirty minute drinking-up/winding-down period is proposed.
- 2.15 The Licensing Act allows small-scale regulated entertainment such as music and dancing to take place without a licence but only up until 2300 hours because it is recognised that any later time can have a detrimental effect on neighbouring premises, and to go beyond that hour would require a licence.
- 2.16 The current premises licence holder has been operating the premises for around six months under the same restrictions and conditions as the previous licence holder. During that time some adverse events have been observed by officers, particularly beyond 2300 hours, and Environmental Health have served a statutory nuisance abatement notice on the premises.

- 2.17 One of the existing conditions on the licence requires the premises licence holder to ensure no noise or vibration shall emanate from the premises so as to cause a nuisance.
- 2.18 The licensing authority should ensure that the prevention of public nuisance objective is not undermined. This has a lower threshold than that required to prove statutory nuisance, and the Panel should bear in mind the following paragraphs of the statutory guidance to the Act:

2.15 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.

2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.18 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.

- 2.19 There has been an on-going dialogue with the premises licence holder since he took over the premises licence and before the present application was submitted with a view to supporting him and ensuring compliance with the licence.
- 2.20 These above comments are to assist the Panel in its decision making process based on the evidence before it and the legislative requirements.

2.21 Conditions

Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.

2.21 The most critical part of the operating schedule are the steps taken by the applicant to promote the licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.

2.22 Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.

2.23 The premises licence at appendix 1 sets out the current conditions. If the application is granted it will be subject to the following conditions, with those conditions translated from the operating schedule shown in italics:

- (1) CCTV is installed, operated and maintained in accordance with the recommendations of the Metropolitan Police.
- (2) SIA registered door supervisors will be in operation when organised functions take place.
- (3) *The premises licence holder shall ensure that fresh drinking water will be available free of charge when the premises are open to the public.*
- (4) Doors and windows will remain closed during opening hours except for access and egress.
- (5) Notices will be displayed at all exits requesting that the public need to respect the local residents and leave the premises quietly.
- (6) Noise or vibration shall not be permitted to emanate from the building so as to cause a nuisance.
- (7) The premises shall operate a 'Challenge 21' policy *and staff will be suitable trained and records kept at the premises of such training. A poster stating this operation will be clearly displayed at a prominent place at the premise. Anyone under the age of 18 will always be under a responsible adult's supervision.*
- (8) *The premises licence holder will ensure that telephone numbers of local taxi companies will be available for patrons to call.*
- (9) (a) *The premises licence holder shall provide a contact telephone number to residential properties situated between numbers 12 and 24 Broadwalk, Pinner Road, North Harrow so they may contact the premises licence holder or designated premises supervisor about any concerns arising from the operation of the premises to be dealt with immediately*

(b) *The premises licence holder shall keep a record at the premises with details of all such calls received under condition 9(a) and details of the actions taken.*

2.24 The Panel has the discretion to add to or modify these conditions where it is appropriate to do so to promote the licensing objectives.

- 2.25 Licensing policy
There are no implications in relation to the statement of licensing policy arising from this application.
- 2.26 Legal implications
The Licensing Panel is required to hold a hearing to consider any relevant representations made in relation to the premises licence application unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.27 The Licensing Panel is required to give appropriate weight to the representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps that are appropriate to promote the four licensing objectives.
- 2.28 Having considered those relevant matters, the Licensing Panel is required to take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –
- The steps are—
- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;
- For the purposes of 2.28(a) above, the conditions of the licence are modified if any of them are altered or omitted or any new conditions added.
- 2.29 It should be noted with all options that –
- clear reasons should be given for the decision.
 - any additional or modified conditions should be practical and enforceable
 - the applicant and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in Schedule 5 to the Licensing Act 2003
- 2.30 In addition to determining the application in accordance with the legislation, Members must have regard to the –
- common law rules of natural justice
 - provisions of the Human Rights Act 1998
 - considerations in section 17 of the Crime and Disorder Act 1998
- 2.31 By section 6 of the Human Rights Act 1998, the Panel is required to act in a way that is compatible with rights under the European Convention for the Protection of Human Rights. The following provisions of the European convention seem relevant: Article 6 (right to a fair trial) Article 14 (prohibition of discrimination) and Article 1 of the First Protocol (protection of property).
- 2.32 In relation to section 17 of the Crime and Disorder Act 1998, this states:

'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'

Financial Implications

2.33 There are no financial implications.

Appeals

2.34 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a magistrates' court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 26 May 2016		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 26 May 2016		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer extension 7667

Background Papers: Application, Plan of the premises, Representations, Location (GIS) Map, Statutory Guidance.