

# REPORT FOR: LICENSING PANEL

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**Date:** 15 December 2016

**Subject:** Application for a variation to the premises licence for Cinnamon Place, First Floor, 406 Kenton Lane, Harrow, HA3 8RQ

**Responsible Officer:** Tom McCourt - Corporate Director, Community Directorate

**Exempt:** No

**Enclosures:** Current Premises Licence including plan (Appendix 1)  
Location (GIS) Map (Appendix 2)  
Image of premises (Appendix 3)  
Representations (Appendix 4)

## Section 1 – Summary

An application has been received to vary the premises licence for Cinnamon Place, First Floor, 406 Kenton Lane, Harrow, HA3 8RQ to extend the opening hours, hours for alcohol sales, regulated entertainment and late night refreshment and amend relevant conditions. Representations have been received from five residents that live within the vicinity of the premises.

## Representations

No representations have been received from any of the responsible authorities.

Five representations have been received from other persons who reside within the vicinity of the premises. The representations are based on the prevention of crime and disorder, public safety and the prevention of public nuisance.

## Section 2 – Report

2.1 The premises licence holder, Mr Uhama Kumara Naidu, has applied to vary the premises licence in respect of Cinnamon Place, First Floor, 406 Kenton Lane, Harrow, Middlesex, HA3 8RQ. The existing premises licence is set out at appendix 1.

### 2.2 Licensable activities

The tables below set out the current licensable activities and the variations being sought. (Note: hours beyond midnight are into the following day)

<b>Current licence</b>			
Day	Hours open to public	Alcohol sales (on the premises)	Live music, Recorded music and Performance of dance
Mon	0800 – 2300	0800 – 2300	0800 – 2300
Tues	0800 – 2300	0800 – 2300	0800 – 2300
Weds	0800 – 2300	0800 – 2300	0800 – 2300
Thurs	0800 – 2300	0800 – 2300	0800 – 2300
Fri	0800 – 2300	0800 – 2300	0800 – 2300
Sat	0800 – 2300	0800 – 2300	0800 – 2300
Sun	0800 – 2230	0800 – 2230	0800 – 2230

### Existing seasonal variations:

There are no existing seasonal variations.

<b>Variation sought (shown in shaded boxes)</b>					
Day	Hours open to public	Alcohol sales (on and off-premises)	Live music , Recorded music , Performance of dance	Performance of anything similar recorded music and performance of dance	Late night refreshment
Mon	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Tues	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Weds	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Thurs	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Fri	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Sat	1000 - 0200	1000 - 0100	2300 – 0100	1000 – 0100	2300 – 0200
Sun	1000 - 0100	1000 - 0000	2300 – 0000	1000 – 0000	2300 – 0100

### Proposed seasonal variations:

(a) On an evening where a party is booked, to extend licensable activities and hours open to public to 0400 the following morning. Parties will only be booked on days prior to a weekend or a non-working day.

### 2.3 Description of premises

The application states: “The premises is a restaurant/bar with banqueting facilities for private parties. The premises has operated many temporary event notices until 0400 without any concerns raised by residents or authorities.”

- 2.4 The premises is a first floor restaurant with a bar area. The ground floor comprises of a set of commercial premises along a busy parade situated near the junction with Belmont Circle.
- 2.5 Licensing history  
The premises have been licensed since August 2010. Mr Uthama Kumara Naidu has previously been the licensee between 9 June 2014 and 3 February 2015 and has been the current premises licence holder since 8 June 2016.
- 2.6 Designated premises supervisor  
Mr Steve Jayapalan Rasanayagam since 29 September 2016
- 2.7 Details of application  
Received: 27 October 2016  
Newspaper advertisement: 3 November 2016 (Harrow Times)  
Closing date for representations: 24 November 2016
- 2.8 Representations  
Five representations have been received from other persons who reside within the vicinity of the premises. The representations are based on the prevention of crime and disorder, public safety and the prevention of public nuisance
- 2.9 Operating schedule  
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.
- 2.10 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 transferred into conditions on the licence.
- 2.11 The Panel's attention is also directed towards paragraphs 8.33 – 8.39 of the statutory guidance that sets out matters that ought to be considered by an applicant when drafting their operating schedule.
- 2.12 The premises licence holder has submitted the following as part of its operating schedule:
- (a) the current CCTV system will continue to be operational
  - (b) local taxi numbers are available for patrons
  - (c) notices are displayed requesting customers to be respectful to nearby residents
  - (d) no nuisance shall be caused by regulated entertainment to nearby resident
  - (e) a Challenge 21 policy will be implemented at the premises.
- These proposals will be converted into appropriate enforceable conditions.
- 2.13 Officers' observations  
The Panel will want to note the following in relation to the proposed variations in times:
- (1) a new licensable activity to allow late night refreshment is sought, and a licence is not required for this between 0500 and 2300 hours;

(2) the times stated for live and recorded music start at 2300 hours due to changes introduced by the Legislative Reform (Entertainment Licensing) Order 2014 (SI 2014 No 3253) that allow for live and recorded music to take place on alcohol-licensed premises in front of fewer than 500 people between 0800 hours and 2300 hours.

- 2.14 The representations that have been received from residents in Kingshill Drive mainly focus on anti-social behaviour, crime and disorder and public nuisance. In summary, residents believe that customers of the premises use the side roads to park (Kingshill Drive being the most convenient) and they create noise and damage and/or deface residents' cars when they leave the premises. The residents have also reported incidences of drunken behaviour from customers returning to their cars on Kingshill Avenue.
- 2.15 Officers inspected the premises as part of their routine inspections on 30 September 2016 and found no matters of concern. There have been no complaints received about the premises since the current DPS assumed his role there.
- 2.16 The Panel will note the absence of representations from the police that any crimes alleged by the residents have been reported, although it may be they have not been reported to the police. The Panel may want to note there are other licensed premises in the vicinity of the applicant's premises on Belmont Circle.
- 2.17 It is for the Panel to decide how much weight to place on those representations after reading them and hearing from the residents and the applicant.
- 2.18 The statutory guidance states (inter alia) the below in respect of public nuisance:

*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*

*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.*

*2.20: 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.*

2.19 These above comments are to assist the Panel in its decision-making process based on the evidence before it and the legislative requirements.

2.20 Licensing policy  
There are no implications in relation to the statement of licensing policy arising from this application.

2.21 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.

2.22 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.

2.23 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;

The conditions of the licence are modified if any of them are altered or omitted or any new conditions added.

2.26 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

2.27 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

2.28 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).

2.29 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**

2.30 There are no financial implications.

## **Appeals**

2.31 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 Mann	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 1 December 2016		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 7 December 2016		

### **Section 4 - Contact Details and Background Papers**

**Contact:** Jeffrey Leib, Principal Licensing Officer extension 7667

**Background Papers:** Application form, Statutory Guidance.