

REPORT FOR: LICENSING Panel

Date:	30 August 2017
Subject:	Application to vary a premises licence for Apollonia Restaurant, 25-29 Church Road, Stanmore, Middlesex, HA7 4AR
Responsible Officer:	Simon Baxter, Divisional Director of Environment and Culture – Community Directorate
Exempt:	No
Enclosures:	Current premises licence (appendix 1) Location (GIS) Map (appendix 2) Image of premises (appendix 3) Plan of premises (appendix 4) Representations (appendix 5) Summary of proposed times and conditions (appendix 6) Operating schedule (appendix 7)

Section 1 – Summary

An application has been received to vary the premises licence for Apollonia Restaurant, 25 – 29 Church Road, Stanmore, Middlesex, HA7 4AR to extend the times for licensable activities and hours open to public. A representation has been received from one residents' association.

Section 2 – Report

- 2.1 Pantop Limited has applied to vary the premises licence (appendix 1) for Apollonia Restaurant, 25-29 Church Road, Stanmore, Middlesex, HA7 4AR. A location map and image of the premises are set out at appendices 2 and 3.
- 2.2 Licensable activities
The applicant has applied to vary the licence according to the following:

2.3

	<i>Current Licence</i>		
	<i>Live music, Recorded music, Performance of dances, and similar, Provision of facilities for music and dance and similar, Sale of retail alcohol</i>	<i>Late night refreshment</i>	<i>Hours open to public</i>
Mon	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Tue	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Wed	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Thu	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Fri	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Sat	1200 – 0100 *	2300 – 0100 *	1200 – 0130 *
Sun	1200 - 0000	2300 - 0000	1200 – 0030 *

* = Next day

Special Extensions:

1. Sale by retail of alcohol can be extended between the terminal hour on New Year's Eve and the commencement hour on the following morning.
2. Intoxicating liquor shall not be sold or supplied after 2300 on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.
3. Suitable beverage other than intoxicating liquor (including drinking water) shall be equally available for **consumption** with or otherwise as an ancillary to meals served on the premises.

	<i>New hours</i>			
	<i>Live music, Recorded music, Performance of dance and similar</i>	<i>Late night refreshment</i>	<i>Sale of retail alcohol</i>	<i>Hours open to public</i>
Mon	2300 – 0100 *	2300 – 0100 *	1030 – 0100 *	1030 – 0130 *
Tue	2300 – 0100 *	2300 – 0100 *	1030 – 0100 *	1030 – 0130 *
Wed	2300 – 0100 *	2300 – 0100 *	1030 – 0100 *	1030 – 0130 *
Thu	2300 – 0100 *	2300 – 0100 *	1030 – 0100 *	1030 – 0130 *
Fri	2300 – 0200 *	2300 – 0300 *	1030 – 0200 *	1030 – 0300 *
Sat	2300 – 0200 *	2300 – 0300 *	1030 – 0200 *	1030 – 0300 *
Sun	2300 - 0000	2300 - 0000	1030 - 0000	1000 – 0000

* = Next day

Special Extensions:

1. On Bank Holiday weekends, the alcohol and other licensable activities to be extended by one hour on the Sunday prior to a bank holiday Monday.
2. Licensable activities to be extended between the terminal hour on New Year's Eve and the commencement hour the following morning.

2.4

Description of premises

The premises is situated on three floors, ground, first and second. The function rooms are situated on the ground and second floor levels. The premises operated as a

restaurant for more than thirty eight years, and recently the operation has focused on privately booked events.

2.5 From officers' observations the premises operates mainly as a venue that caters for privately booked events and is no longer a restaurant. The current licence only covers the ground floor of the premises and the variation seeks to extend this to cover the second floor. The second floor will only be used for pre-booked private parties.

2.6 The premises are located on the A410 Church Road. The entrance to the premises is located on the ground floor of a shopping parade with retail uses either side. There are several other licensed premises in the direct vicinity of the premises which operate into the early hours of the morning.

2.5 History of the premises

The premises have been previously licenced under a Justices Licence which was converted to a premises licence following an application for conversion in 2005. Since 2005, there have not been any applications to transfer or to vary the premises licence.

2.6 Designated premises supervisor

Michell Christoforou

2.7 Details of application

Received: 6 July 2017

Closing date for representations: 3 August 2017

The application has been advertised in accordance with the prescribed regulations

2.8 Representations

Representations have been received from one other person not being any of the responsible authorities (appendix 5). None of the responsible authorities have made any representations.

2.9 Operating schedule and conditions

Members will be aware that an operating schedule forms part of the licensing application 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 Panel's attention is directed towards paragraphs 8.38 – 8.46 of the statutory guidance issued under the Act that sets out matters that ought to be considered by an applicant when drafting their operating schedule.

2.11 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. The Panel's discretion is engaged in the light of relevant representations to impose conditions that are appropriate to promote the licensing objectives. Conditions should be tailored to the size, type, location, characteristics and activities at the premises, and the Panel should be aware of any indirect costs that may arise from the imposition of conditions.

- 2.12 Appendix 6 sets out for the Panel's consideration a summary of proposed hours and the conditions transferred from the operating schedule (which is at appendix 6). The wording of the conditions is taken from the licensing authority's pool of model conditions that is publicly accessible on the council's website.
- 2.13 Members should be aware that the premises are entitled to provide live or recorded music between 0800 hours and 2300 hours each day, for a premises that is licensed for the sale of alcohol for consumption on the premises. No conditions can be imposed in relation to live or recorded music between those times other than following a review of the premises licence.
- 2.14 When imposing conditions relating to CCTV the Panel should bear in mind the Information Commissioner's guidance¹ that such conditions should only be imposed where it is justified to do so and in order to meet the licensing objectives. However the conditions in appendix 6 already exist on the current premises licence.
- 2.15 Members should be aware of section 14.58 of the statutory guidance regarding planning and building control which states amongst others things:

There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee

- 2.16 The Panel has the discretion to add to or modify these conditions in light of the representations where it is appropriate to do so to promote the licensing objectives.
- 2.17 Licensing policy
There are no issues arising from this application in relation to the licensing authority's statement of licensing policy.
- 2.18 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.
- 2.19 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.
- 2.20 The Licensing Panel will be aware that it should not reduce the existing licensable activity hours of the premises licence.
- 2.21 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 –

¹ https://ico.org.uk/media/for-organisations/documents/1565/ico_view_on_cctv_in_pubs.pdf

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.

2.21 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.

2.22 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

2.23 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)

2.24 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

2.25 There are no financial implications.

Appeals

2.26 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: 10 August 2017		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 10 August 2017		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer Tel: 020 8424 7667

Email: Jeffrey.leib@harrow.gov.uk

Background Papers: Application form, Statutory Guidance.