

REPORT FOR: LICENSING Panel

Date:	02 October 2017
Subject:	Application to vary a premises licence for Club KTM, 32 Railway Approach, Wealdstone, Harrow, Middlesex, HA3 5AA
Responsible Officer:	Simon Baxter, Divisional Director – 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 Club KTM, 32 Railway Approach, Wealdstone, Harrow, Middlesex, HA3 5AA to extend the times for licensable activities and hours open to public. A representation has been received from several residents and from the licensing authority in its role as a Responsible Authority.

Section 2 – Report

- 2.1 Mr Prakash Pradhan has applied to vary the premises licence (appendix 1) for Club KTM, 32 Railway Approach, Wealdstone, Harrow, Middlesex, HA3 5AA. 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 dance and similar, Sale of retail alcohol</i>	<i>Late night refreshment</i>	<i>Hours open to public</i>
Mon	1200 – 0000	2300 – 0000	1200 – 0030*
Tue	1200 – 0000	2300 – 0000	1200 – 0030*
Wed	1200 – 0000	2300 – 0000	1200 – 0030*
Thu	1200 – 0000	2300 – 0000	1200 – 0030*
Fri	1200 – 0200*	2300 – 0200*	1200 – 0230*
Sat	1200 – 0200*	2300 – 0200*	1200 – 0230*
Sun	1200 – 0000	2300 – 0000	1200 – 0030*

* = Next day

Special Extensions:

On commencement of British Summer Time one hour should be added to the finish time. From the end of the sale of alcohol on the 31st December until the start of the sales of alcohol on the following day

	<i>New hours</i>		
	<i>Live music, Recorded music; performance of dance Sale of retail alcohol</i>	<i>Late night refreshment</i>	<i>Hours open to public</i>
Mon	1200 – 0200 *	2300 – 0200 *	1200 – 0230 *
Tue	1200 – 0200 *	2300 – 0200 *	1200 – 0230 *
Wed	1200 – 0200 *	2300 – 0200 *	1200 – 0230 *
Thu	1200 – 0400*	2300 – 0400 *	1200 – 0430**
Fri	1200 – 0400 *	2300 – 0400 *	1200 – 0430*
Sat	1200 – 0400*	2300 – 0400 *	1200 – 0430*
Sun	1200 – 0200 *	2300 – 0200 *	1200 – 0430 *

* = Next day

Special Extensions:

Licensing activity hours will be 12:00 - 04:00 on the following days; Valentine’s Day, Nepalese Republic Day, Dussehra, Diwali, Christmas Eve, Christmas Day, Boxing Day, New Year’s Eve, New Year’s Day and all public bank holidays.

2.4 Description of premises

The premises comprise of, primarily, a ground floor dance floor with a reception area, stage, bar, cloakroom, and dance floor; and a second floor restaurant/function area.

2.5 Officers’ observations

The premises are located on Railway Approach A409, on the main thoroughfare between Wealdstone and Harrow and opposite the Civic Centre site. This is effectively an island site which includes a mix of residential and commercial premises.

2.6 The premises operates as mainly as a nightclub. Previous temporary event notices state that the maximum number of persons as 280. Section 2.12 – 2.14 of the Statutory Guidance refers to “Safe Capacities” and it recommends that the applicant carries out a risk assessment with regard to safe capacities. Given the nature of the venue being run as a night club, no information has been given to the Licensing

Authority by the applicant regarding safe capacities and no representations have been received from the fire authority about a permitted maximum capacity for these premises.

2.7 The representations received from other persons mainly concentrate on the undermining of the crime and disorder and the public nuisance objectives. In summary, local residents are concerned that the grant of the application would lead to an increase in crime and disorder and would also further disturb the peaceful amenity of their residences.

2.8 Information on public nuisance is available in paragraphs 2.15 – 2.21 of the Statutory Guidance. In particular, section 2.16 states:

“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.

2.9 History of the premises

The premises have been licensed since 3 November 2010. The premises licence was transferred to the current owners on 26 May 2017

2.10 Designated premises supervisor

Prakash Pradhan

2.11 Details of application

Received: 09 August 2017

Closing date for representations: 6 September 2017

The application has been advertised in accordance with the prescribed regulations

2.12 Representations

Representations have been received from one responsible authority being the Licensing Authority and eight other persons (appendix 5).

2.13 Operating schedule and 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.

2.14 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.

2.15 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.

- 2.16 Appendix 6 sets out for the Panel's consideration a summary of proposed hours and the conditions transferred from the operating schedule. 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.
- 2.17 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.
- 2.18 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.
- 2.19 Licensing policy
Paragraph 6.3 of the licensing authority's statement of licensing policy sets out the matters that the Panel may take into account when considering representations (although the Panel is not limited to these matters):
- noise reduction measures associated with licensable activities, particularly near to residential properties such as noise limiters, acoustic lobbies, double glazing, ventilation systems etc
 - noise mitigation measures associated with licensable activities, particularly near to residential properties
 - measures to control smoking
 - extent of any external areas such as beer gardens, smoking areas and pavement cafes
 - effective wind-down and dispersal policies
 - noise from people arriving at or leaving from the premises and which is related to licensable activities
 - control of other nuisances relating to licensable activities such as light or odours
 - management of waste particularly preventing fly-tipping
 - arrangements in place for hiring licensed premises for private parties especially younger "anniversary birthday" parties
- 2.20 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.
- 2.21 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.

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

2.22 The Licensing Panel will be aware that it is unable to reduce the existing hours of the premises licence as shown at appendix 3).

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.

2.21 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: 15 September 2017		
Name: Harinder Dhaliwal	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 18 September 2017		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer extension 7667

Background Papers: Application form, Statutory Guidance.