

REPORT FOR: LICENSING Panel

Date:	30 April 2018
Subject:	Application to vary a premises licence for Bombay Central, 328 High Road, Harrow, Middlesex HA3 6HS
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) Proposed plan of premises (appendix 4) Representation (appendices 5 & 5A) Summary of proposed times and conditions (appendix 6)

Section 1 – Summary

An application has been received to vary the premises licence for Bombay Central, 328 High Road, Harrow, Middlesex HA3 6HS to add an external seating/dining area to the licensable plan to allow licensable activities to take place there. Environmental Health has made a representation on the grounds of preventing public nuisance.

Section 2 – Report

- 2.1 Application
Dine (India) Limited has applied to vary the premises licence (appendix 1) for Bombay Central, 328 High Road, Middlesex HA3 6HS. A location map and image of the premises are set out at appendices 2 and 3. The application is to incorporate an external seating and dining area within the ambit of the licensed premises and to allow licensable activities to take place there between 1030 hours and 2300 hours (1000 hours on Sunday). The proposed area is shown on appendix 4.
- 2.2 Licensable activities
The premises licence sets out the licensable activities which are in summary:

	<i>Hours open to public</i>	<i>Sale of alcohol</i>	<i>Live music/dance performance*</i>	<i>Recorded music*</i>	<i>Late night refreshment</i>
<i>Ground floor</i>	0800 – 0100 next day	1000 – 0000	None		2300 - 0000
<i>Basement</i>	0800 – 0200 next day	1000 – 0100 next day	1000 – 0100	1000 - 0100	2300 – 0130 next day
<i>External area if granted</i>	1030 – 2300 (1000 – 2300 Sunday)	1030 – 2300 (1000-2300 Sunday)	None	None	None

The terminal hour for opening is extended on New Years' Eve to 0400 hours the following morning and until 0300 hours for licensable activities.

* A licence is not needed for live or recorded music, or for dance, between 0800 hours and 2300 hours.

** A licence is not needed for late night refreshment between 0500 hours and 2300 hours.

2.3 Description of premises

The premises were described on the 2015 premises licence application form as follows:

“The premises consists of [a] ground floor restaurant and basement with [an] 80 person capacity private bookings venue/restaurant. The business is mainly-food led and provides [a] high quality dining experience. The timings for [the] ground floor are different to [the] basement as the basement will be closing later than the ground floor due to party bookings.

2.4 The premises are centrally located on the High Road, Harrow Weald in a mixed commercial and residential area.

2.5 History of the premises

It is understood the premises were originally licensed and operated as a pub under the Licensing Act 1964 and Licensing Act 2003 until approximately 2012¹. A new premises licence has been held by the current premises licence holder since 5 January 2016.

2.6 Designated premises supervisor

Nishant Nishant

2.7 Details of application

Received: 5 March 2018

Closing date for representations: 2 April 2018

The application has been advertised in accordance with the prescribed regulations

¹ Licensing records are not complete for this period but refer to www.whatpub.com.

2.8 Representations

A representation has been made by Environmental Health on the grounds of preventing public nuisance (appendix 5).

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.

2.12 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.

2.13 Conditions must also be clear, understandable, capable of being complied with by the premises licence holder and enforceable as breach of any condition is a criminal offence.

2.14 The premises licence holder has not proposed any additional conditions to those on the premises licence, save for a condition that the external area will be closed at 2300 hours.

2.15 Whilst appendix 6 is provided for the Panel's assistance, the Panel is reminded that any final decision on this application and any conditions to be applied on the licence is the Panel's decision taking in to account all relevant matters, including the representations, legislation, statutory guidance and Harrow's Licensing Policy.

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 Environmental Health have proposed the following conditions that they believe would alleviate the potential for public nuisance to be caused to the nearby properties identified in their representation:

(1) No amplified music or speech to be played in the external area.

(2) The external area shall only be used up until 21:00 hours Sunday – Thursday and 22:00 hours Friday- Saturday.

(3) No persons shall be permitted to smoke outside the rear of the premises after 21:00 hours Sunday – Thursday and 22:00 hours Friday - Saturday.

- (4) The maximum occupancy of the external area at any one time to be 20 persons (not including serving staff).
- (5) Clear and legible notices shall be displayed in a prominent position near the exit door(s) requesting that customers leave quietly to avoid disturbing local residents.
- (6) Clear and legible notices shall be displayed in a prominent position in any external areas where customers are permitted to smoke or drink, requesting that they keep noise to a minimum to avoid disturbing local residents.
- (7) Any security or other external lighting shall be carefully positioned and oriented to prevent lights shining into nearby residential properties and causing a nuisance.

2.18 Members should be aware that the premises are entitled to provide live or recorded music between 0800 hours and 2300 hours each day. No conditions can be imposed in relation to live or recorded music between those times other than following a review of the premises licence and to that extent the impact of condition (1) would be restricted.

2.19 The Panel may wish to clarify whether the extended hours allowed on New Years' Eve should also apply to the external area, if granted.

2.20 Licensing policy

Paragraph 6.3 of the licensing authority's statement of licensing policy sets out matters that the Panel may take into account when considering representations (although the Panel is not limited to these matters) including:

- 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
- effective wind-down and dispersal policies
- noise from people arriving at or leaving from the premises and which is related to licensable activities

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 The Licensing Panel will be aware that it cannot reduce the existing licensable activity hours of the premises licence.

2.24 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.

2.24 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.

2.25 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

2.26 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)

2.27 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

2.28 There are no financial implications.

Appeals

- 2.29 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: 17.04.18		
Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 18.04.18		

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.