

REPORT FOR: LICENSING Panel

Date:	30 July 2018
Subject:	Application for a new premises licence for Bianca's Kitchen, 8 Whittington Way, Pinner, HA5 5JT
Responsible Officer:	Simon Baxter, Divisional Director – Community Directorate
Exempt:	No
Enclosures:	Premises licence application & Plan (appendix 1) Location (GIS) Map (appendix 2) Representations (appendix 3) Summary of proposed times and conditions (appendix 4)

Section 1 – Summary

An application has been received for a new premises licence for Bianca's Kitchen, 8 Whittington Way, Pinner, HA5 5JT. Representations have been received from several residents which express concerns about the possible undermining of the licensing objectives should the licence be granted.

Section 2 – Report

2.1 Bianca Ailincai has applied to for a new premises licence (appendix 1) for Bianca's Kitchen, 8 Whittington Way, Pinner, Middlesex, HA5 5JT. A location map is available on appendix 2.

2.2 Licensable activities
The applicant has applied to vary the licence according to the following:

2.3

	<i>Proposed hours</i>		
	<i>Sale of retail alcohol</i>	<i>Late night refreshment</i>	<i>Hours open to public</i>
Mon	1000 – 0200*	2300 – 0200*	1000 - 0230*
Tue	1000 – 0200*	2300 – 0200*	1000 - 0230*

Wed	1000 – 0200*	2300 – 0200*	1000 - 0230*
Thu	1000 – 0200*	2300 – 0200*	1000 - 0230*
Fri	1000 – 0200*	2300 – 0200*	1000 - 0230*
Sat	1000 – 0200*	2300 – 0200*	1000 - 0230*
Sun	1000 – 0200*	2300 – 0200*	1000 - 0230*

* = Next day

Special Extensions:

There are no special extensions proposed for this application.

2.4 Description of premises

A small restaurant situated on the ground floor in a parade of shops. There are residential flats above the premises.

2.5 Officers' observations

The premises are located on Whittington Way in a parade of shops. This is effectively a mix of residential and commercial premises.

2.6 The representations received from other persons mainly concentrate on the undermining of the public nuisance objective. In summary, local residents are concerned that the grant of the application would lead to the undermining of the public nuisance objective in that it will disturb the peaceful amenity of their residences.

2.7 Information on public nuisance is available in paragraphs 2.15 – 2.21 of the Statutory Guidance. In particular, paragraph 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.

2.8 History of the premises

Records show that this premises was previously known as Burakh which was licensed for the sale of alcohol. The licence was surrendered on 29 May 2015. The premises was a take-away shop with hours terminating at 23:00 Monday – Saturday and 22:30 on Sundays. After the surrender of the licence, the premises was known as Gourmet Grills between February 2018 and June 2018. This premises did not benefit from a premises licence.

2.9 Proposed Designated premises supervisor

Bianca Ailincai

2.10 Details of application

Received: 4 June 2018

Closing date for representations: 25 July 2018

The application has been advertised in accordance with the prescribed regulations

- 2.11 Representations
Representations have been received from five other persons (appendix 3).
- 2.12 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.
- 2.13 The Panel's attention is directed towards paragraphs 8.41 – 8.49 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.
- 2.14 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.
- 2.15 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.
- 2.16 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.
- 2.17 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.
- 2.18 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

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

- 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

2.19 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.

2.20 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.

2.21 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 –

The steps are—

- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;

2.22 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.

2.23 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

2.24 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)

2.25 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

2.26 There are no financial implications.

Appeals

2.27 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: 20 July 2018		
Name: Baljeet Virdee	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 18 July 2018		

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, **Tel:** 020 87366267
Ext. 6267 **Email:** richard.lebrun@harrow.gov.uk

Background Papers: Application form, Statutory Guidance.