

Meeting:	Licensing and General Purposes Committee
Date:	6 March 2006
Subject:	Summary of Concluded Licensing Appeals
Responsible Officer:	Director of Legal Services
Contact Officer:	David Galpin, Senior Lawyer – Litigation and Licensing, extension 7500
Portfolio Holder:	Councillor Philip O'Dell
Key Decision:	No
Status:	Public

Section 1: Summary

Decision Required

That the Committee note the attached Schedule, which contains a summary of concluded licensing appeals brought pursuant to the Licensing Act 2003, section 181 and Schedule 5.

Reason for report

To inform members as to how decisions of the Licensing Panel are being treated following appeal to the Harrow Magistrates' Court.

Benefits

Members will gain an understanding of how decisions of the Licensing Panel are being treated following appeal.

Cost of Proposals

There are no costs associated with the proposed decision.

Risks

The risk of failing to note how decisions of the Licensing Panel are being treated on appeal is that an opportunity to learn from past experience may be lost.

Implications if recommendations rejected

As for "Risks".

Section 2: Report

2.1 Brief History

2.1.1 The first appeal against a decision of the Council as licensing authority under the Licensing Act 2003 was commenced in September 2005. Since that time there have been a total of nine appeals. Six of the appeals have now been concluded.

2.1.2 In each licensing appeal, the decision appealed against is a decision of the Licensing Panel. This is not surprising, given that applications under the Licensing Act 2003 not determined by the Panel are those in which there have been no relevant representations. In those cases, the Licensing Act requires that the Council as licensing authority grant the application as sought.

2.1.3 The Licensing Panel is comprised of members of the Committee, who will likely be interested in how decisions of the Licensing Panel have fared on appeal.

2.2 Options considered

2.2.1 The attached Schedule contains details of the six appeals that have been concluded. In summary, the appeals have been dealt with as follows –

- 2 Determined by the Harrow Magistrates' Court following contested hearing (Bar Room Bar, Vine).
- 3 Determined by the Harrow Magistrate's Court following agreement between the parties (Club 2000, Moon on the Hill, Club Mehfil).
- 1 Appeal withdrawn (Castle).

2.2.2 In respect of the two appeals determined following contested hearing, one appeal was upheld and the other was dealt with in accordance with s181(b) of the Licensing Act 2003, the decision was substituted. In the case of Bar Room Bar, the appellant complained about seven conditions. The Court deleted one condition, left one condition untouched and made minor changes to five conditions. In the case of Vine, the appellant (a resident) asked the court to import a condition in force under the 1968

Licensing Act. The Court substituted a separate additional condition and kept the original conditions imposed by the Panel.

2.2.3 In respect of the three appeals dealt with by the Court following agreement between the parties, one was remitted to the Panel for rehearing (Club Mehfil) and two were remitted for the issue of amended licences in accordance with agreed directions (Club 2000, Moon on the Hill). In the case of Club 2000, the agreed direction was for the deletion from the licence of seven extra, non-standard, days on which the premises would otherwise have been able to supply alcohol for extended hours. In the case of Moon on the Hill, the agreed direction was for the reduction in the standard hours for the supply of alcohol.

2.2.4 In respect of the three compromised appeals, two were compromised before the difficulty with instructions was identified. The third matter (Club Mehfil) was compromised after instructions were obtained by urgent non-executive action.

2.3 Consultation

2.3.1 There has been no external consultation in respect of this report.

2.4 Financial Implications

2.4.1 There are no costs or financial implications associated with the proposed decision.

2.5 Legal Implications

2.5.1 A separate report has been prepared dealing with the compromise of licensing appeals. No other legal implications arise.

2.6 Equalities Impact

2.6.1 No equalities issues appear to arise from the disposal of the six licensing appeals dealt with in the Schedule.

2.7 Section 17 Crime and Disorder Act 1998 Considerations

2.7.1 The prevention of crime and disorder is one of the four licensing objectives. The extent to which this was an issue in any appeal is indicated in the attached Schedule.

Section 3: Supporting Information/Background Documents

Supporting Information: Attached Schedule.

**SCHEDULE OF LICENSING APPEALS
LICENSING ACT 2003, SECTION 181 AND SCHEDULE 5**

PREMISES:	CASTLE, 30 WEST STREET, HARROW ON THE HILL
Nature of premises:	Public house
Appellant:	Allan Lunn
Original Application:	Application by Fullers, Smith and Turner Plc to convert an existing licence to a premises licence, with simultaneous variation. The applicant sought opening hours of 1000 – 0030 (Mon – Thurs), 1000 – 0130 (Fri – Sat) and 1000 – 0000 (Sun). The applicant sought the following licensable activities, to conclude half an hour prior to closing time: live music; facilities for dancing; late night refreshment (starting at 2330); and supply of alcohol. The applicant also sought to open for a 24 hour period on New Years Eve.
Panel hearing:	6 September 2005
Panel decision:	The Panel granted the conversion and variation subject to 7 additional conditions.
Issue on appeal:	The Appellant stated that a very large number of local residents, including customers, were against the extension of hours and expressed a concern that the operator must be seeking customers from outside the local area. The appellant was concerned that alcohol related problems would be experienced in the residential neighbourhood in which the premises are situated.
Magistrates' Court hearing:	N/A
Decision on appeal:	Appeal withdrawn 30 December 2005
PREMISES:	CLUB 2000, 427 – 431 RAYNERS LANE, HARROW
Nature of premises:	Proprietary club
Appellant:	Metropolitan Police
Original Application:	Application by Narshi Jashwani Chudasama and Hemendra Chunnidhai Patel to convert existing licence to premises licence with simultaneous variation. The applicant sought opening hours of 0700 – 0100 (Mon – Thurs), 0700 – 0200 (Fri – Sat) and 0900 – 0200

(Sun). The applicant sought the following licensable activities at times coincident with the opening hours (although ceasing at 0100 on Sundays): films; indoor sporting events; live music; recorded music; performances of dance; similar activities (quiz nights and comedians); provision of facilities for making music; provision of facilities for dancing; similar facilities (live band/karaoke with audience participation); late night refreshments (starting at 2300); and supply of alcohol. The applicant sought extended hours on nominated special days.

Panel hearing: 1 September 2005

Panel decision: The Panel granted the conversion and variation with amended hours and subject to 8 additional conditions. The amended hours were as follows: supply of alcohol 1000 – 0030 (Mon – Thurs), 1000 – 0100 (Fri – Sat), 1000 – 2300; an extra 7 days per annum with hours for sale of alcohol of 0900 – 0230.

Issue on appeal: The metropolitan police objected strongly to the grant of extended hours on the 7 extra, or non-standard, days per annum and appealed on the basis that the Panel was wrong to grant those hours.

Magistrates' Court hearing: 8 December 2005 (pre-hearing directions)

Decision on appeal: By consent, matter remitted to London Borough of Harrow for issue of licence in accordance with the following direction: to remove the grant of an extra 7 non-standard days per annum with licensed hours for the sale of alcohol between the hours of 0900 and 0230 hours.

PREMISES: **MOON ON THE HILL, 373-375 STATION ROAD, HARROW, MIDDLESEX**

Nature of premises: Public house

Appellant: Mr Stefan Szulc and Mrs Shelagh Szulc (objectors)

Original Application: Application by J D Weatherspoon Plc to convert existing licence to premises licence with simultaneous variation. The applicant sought the following licensable activities and hours –

- Supply of alcohol, 0900 – 0030 (Sun – Thurs), 0900 – 0100 (Fri – Sat).
- Late night refreshment, 2300 – 0030 (Sun – Thurs), 2300 – 0100 (Fri – Sat).
- Opening hours, 0700 – 0130 (Sun – Thurs), 0700 – 0200 (Fri – Sat).

The applicant sought additional hours on nominated days (some of these additional days were abandoned by the applicant at the Panel hearing).

Panel hearing: 4 August 2005

Panel decision: The Panel granted the conversion and variation as amended (by abandonment of some additional hours, see above) and subject to the following additional conditions: (1) Appropriate signage to be displayed requesting patrons to leave the premises quietly; (2) The premises be provided with fully operational CCTV; (3) Children only be allowed in designated areas.

Issue on appeal: The appellants raised six grounds of appeal: (1) The Panel failed to explain at the beginning of the hearing the procedure that it proposed to follow; (2) The Panel paid insufficient regard to the appellants' representations; (3) The Panel paid insufficient regard to the representations of the environmental health officer and of police; (4) The local authority failed to provide relevant representations to the Panel; (5) The local authority failed to advise parties of their right to appeal; (6) The Panel failed to state its reasons for decision.

Magistrates' Court hearing: 11 January 2006 (in the absence of the parties)

Decision on appeal: By consent, matter remitted to London Borough of Harrow for issue of licence in accordance with the following agreed terms: (1) Supply of alcohol, 0900 – 0000 (Sun – Thurs), 0900 – 0030 (Fri – Sat); (2) In all other respects the decision of the Panel to stand.

PREMISES: **BAR ROOM BAR, THE VICTORY, HIGH STREET, PINNER**

Nature of premises: Public house

Appellant: Spirit Group Ltd (the original applicant)

Original Application: *Application by Spirit Group to convert existing licence to premises licence with simultaneous variation. The applicant sought the following licensable activities and hours –*

- Live music, 1000 – 0100 (Mon – Sun)
- Recorded music, 1000 – 0100 (Mon – Sun)
- Live entertainment and karaoke, 1000 – 0100 (Mon – Sun)
- Dancing, 1000 – 0100 (Mon – Sun)
- Late night refreshment, 2300 – 0200 (Mon – Sun)
- Supply of alcohol, 1000 – 0100 (Mon – Sun)
- Opening hours, 0900 – 0200 (Mon – Sun).

The applicant sought additional hours on nominated days.

Panel hearing: 13 September 2005

Panel decision: The Panel granted the conversion and variation with amended hours and subject to 11 additional conditions.

Issue on appeal Appellant did not dispute hours, but objected to 7 of the 11 additional conditions. The conditions complained of were: (4) Staff to patrol inside and outside of the premises to monitor noise levels; (5) Garden cleared of customers and glasses by 2300; (6) No drink promotions to commence after 2100; (8) Doors and windows must be closed during any form of entertainment; (9) Three SIA registered door supervisors (one female) to be employed on the premises from 1900 to closing time on Fri-Sun; (10) No entry or re-entry after 0000 on Friday and Saturday; (11) CCTV equipment to be installed, operated and maintained to the police's satisfaction.

Magistrates' Court hearing: 1 February 2006

Decision on appeal: Appeal allowed. Condition 6 unchanged. Condition 10 deleted. Conditions 4, 5, 8, 9 and 11 varied as follows: (4) Staff will regularly patrol to monitor noise levels within and outside the premises when regulated entertainment is being provided to ensure no noise nuisance is being caused; (5) Garden to be cleared of customers and glasses by 2320 hours; (8) A minimum of 3 SIA registered door supervisors (one of whom must be female) to be employed on the premises from 2000 hours until closing time on Friday and Saturday. A minimum of 2 SIA registered door supervisors (one of whom must be female) to be employed on the premises from 2000 hours until closing time on Sunday; (11) CCTIV cameras to be installed, operated and maintained to the Police's reasonable requirements. The tapes to be retained for a period of 31 days to enable Police to inspect them if necessary.

PREMISES: CLUB MEHFIL, 32 STATION APPROACH, WEALDSTONE

Nature of premises: Nightclub

Appellant: Dawn Robson

Original Application: Application by Dawn Robson to convert existing licence to premises licence with simultaneous variation. The applicant sought opening hours of 2100 – 0300 (Sun – Thurs) and 2100 – 0400 (Fri – Sat) with the following coincident licensable activities: Live music; Recorded music; Dance performance; Dancing facilities; Late night refreshment (starting at 2300); and Supply of alcohol. The applicant sought additional hours on nominated days.

Panel hearing: 18 August 2005 (applicant not present for hearing)

Panel decision: The Panel granted the application with amended hours and subject to 5 additional conditions. The Panel reduced the hours for supply of

alcohol to 2100 – 0230 (Sun – Thurs) and 2100 – 0330 (Fri – Sat) and deleted the extended hours sought on nominated days, with the exception of an extra 1 hour on Christmas Eve. The 5 additional conditions were: (1) No entry or re-entry to the premises to be permitted after 12.30 am on Mondays to Thursdays and Sundays; (2) No entry or re-entry to the premises to be permitted after 1.00 am on Fridays and Saturdays; (3) Front and rear doors to remain closed other than for usage for entry and egress; (4) The front door to remain closed, apart from in an emergency, with the rear doors being closed for egress after the hours listed in conditions 1 and 2; (5) Appropriate signage to be in place to request patrons to leave the premises quietly.

Issue on appeal Appellant contended that she did not attend at the Panel hearing because she did not receive notification until after the hearing. The appellant complained of the additional conditions 1, 2 and 4. The appellant expressed confusion about the hours granted for licensable activities.

Magistrates' Court hearing: 21 January 2006 (in the absence of the parties)

Decision on appeal: By consent, matter remitted to London Borough of Harrow for rehearing.

PREMISES: **VINE, 154 STANMORE HILL, STANMORE**

Nature of premises: Public House

Appellant: David Jonathon Gottler

Original Application: Application by Punch Taverns Plc to convert existing licence to premises licence with simultaneous variation. The applicant sought opening hours of 1000 – 0030 (Mon – Thurs), 1000 – 0130 (Fri – Sat) and 1200 – 0100 (Sun). The applicant sought to provide the following licensable activities, terminating half an hour prior to closing each day: films; live music; recorded music; karaoke; late night refreshment (starting at 2300); and supply of alcohol. The applicant sought to have licensable activities terminate at 0100 on Christmas Eve and Boxing Day.

Panel hearing: 22 August 2005

Panel decision: The Panel granted the application subject to seven additional conditions: (1) All doors and windows to be closed whilst music is being played; (2) External areas not to be used after 2300; (3) Notices to be placed in prominent positions requesting patrons to leave the premises quietly; (4) No children allowed on the premises after 2100; (5) Registered door supervisors to be present after 2300; (6) Amplified sound equipment to be governed by a sound-limiting

device set at a level approved by the Licensing Authority; (7) AWP machine to be booted or emptied daily.

Issue on appeal The appellant contended that the Panel's decision was against the weight of the evidence and that the hearing was conducted contrary to the rules of natural justice.

Magistrates' Court hearing: 15 February 2006

Decision on appeal: Appeal not allowed. The Court decided not to import a condition making the provision of food ancillary to the sale of alcohol, as per the Appellant's request. However, the Court imposed an additional condition "No new entry to the premises after 11.00pm". The existing conditions imposed by the Licensing Authority were not deleted. All parties to bear their own costs.