
REPORT FOR: LICENSING PANEL

Date of Meeting:	19 June 2019
Subject:	Application for review of the premises licence for Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, HA8 6LR
Responsible Officer:	Paul Walker – Corporate Director – Community Directorate
Exempt:	No
Wards affected:	Canons
Enclosures:	Application for review (appendix 1) Location map and image (appendix 2 and 2a) Current premises licence and plan (appendix 3) Representations (appendix 4) Licence review guidelines (appendix 5)

Section 1 – Summary

An application has been received from the Environmental Health Department to review the premises licence for Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, HA8 6LR, on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance.

Representations received

From	Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health	<i>Application received</i>
Trading Standards	No representations received
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
<i>Metropolitan Police</i>	No representations received
<i>Licensing authority</i>	No representations made

Representations from other persons

2 representations have been received from other persons who are members of the public.

Section 2 – Report

1. An application has been made on behalf of the Environmental Health Department to review the premises licence for Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, HA8 6LR on the grounds of preventing crime and disorder, public safety and the prevention of public nuisance (appendix 1).
2. Description of premises
The premises are located on a busy parade of Whitchurch Lane. The premises comprise a two storey building. Primarily, the ground floor is a restaurant and bar. The second story is a converted attic space which is furnished for a seating area but it is not currently used for customers.
3. An image of the premises and a location map are provided at appendix 2.
4. Licensing history
A premises licence was first granted on 15 November 2007. The premises licence was transferred to the premises licence holder on 14 November 2014. The designated premises supervisor was varied at the same time to Mr Nilesh Amlani. Mr Amlani is also a director of Local Restaurant Limited.
5. On 9 March 2015, A variation application was submitted to the authority to extend hours for hours open to public, regulated entertainment, late night refreshment and the retail sale of alcohol. The variation also sought the removal of a condition “intoxicating liquor may only be supplied as ancillary to a substantial table meal”. As no representations were received in respect of this application, it was granted.

6. The current premises licence and plan are attached at appendix 3.
7. Details of the application
Received: 15 April 2019
The application has been advertised in accordance with the prescribed regulations.
8. Representations
There have been two representations. Both are from other persons who are members of the public
9. Officer observations
The application has been submitted to the authority by the Environmental Health Department as they have received complaints about noise nuisance that has been emanating from the premises. Mr Riley, on behalf of Environmental Health Department has approached the licensee on several occasions to work with him to try and resolve the issues that are causing one or more of the licensing objectives to be undermined. Noise abatement notices served under the Environmental Protection Act 1990 (EPA 1990) have also been served. It is to be noted that these notices are included with the application only to support information that shows that the prevention of public nuisance objective has been undermined. The non-compliance of these notices and actions taken for non-compliance should not be a consideration under the Licensing Act 2003. The information supplied on the review application and the representations clearly indicate that Condition 7 and condition 9 of annex 3 of the premises licence have not been complied with. A breach of a licence condition is criminal offence and it is dealt with under Section 136 of the Act – Unauthorised Licensable Activities.
10. Statutory guidance
The following passages and paragraphs of the statutory guidance issued by the Secretary of State in April 2018 are relevant to this application.
11. Paragraph 11.10 of the guidance refers to good practice for responsible authorities to engage with premises to resolve concerns at an early stage without the need for formal action such as a review.
12. Paragraph 11.20 of the guidance refers to the need for licensing authorities to ensure remedial action should be addressed to the causes identified in the application or representations, and that decisions must be appropriate and proportionate to those concerns.
13. Information on public nuisance is available in paragraphs 2.15 – 2.21 of the Statutory Guidance. In particular, paragraph 2.16 states:

14. *“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.”*
15. Licensing policy
The Panel will bear in mind appendix 1 to the statement of licensing policy, attached to this report at appendix 5. The Panel has discretion to depart from the guidelines, which are designed with consistency and transparency of decision-making in mind.
16. Legal implications
The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
17. The Licensing Panel is required to give appropriate weight to the review application, 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 (if any) that are appropriate to promote the four licensing objectives.
18. Having considered those relevant matters, the Licensing Panel can take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –
- a. to modify the conditions of the licence;
 - b. to exclude any of the licensable activities from the scope of the licence;
 - c. to remove the designated premises supervisor;
 - d. to suspend the licence for a period not exceeding 3 months;
 - e. to revoke the licence
 - f. and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition added.
 - g. If the Panel takes a step mentioned in 1 or 2 of paragraph 2.13 above, it can specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.
19. It should be noted that –
- a. clear reasons must be given for the decision;
 - b. any additional or modified conditions should be practicable and enforceable;

20. the applicant for the review, the premises licence holder 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.
21. In addition to determining the application in accordance with the legislation, Members must have regard to the –
- a. common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc);
 - b. provisions of the Human Rights Act 1998;
 - c. considerations in section 17 of the Crime and Disorder Act 1998.
22. The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).
23. The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which states:
24. '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

25. There are no financial implications.

Appeals

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

on behalf of the
Chief Financial Officer

Date: 17 May 2019

Name: Theresa Awosika	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 24 May 2019		

Name: Paul Walker	<input checked="" type="checkbox"/>	Corporate Director
Date: 17 May 2019		

Ward Councillors notified:	Yes
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Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, Ext. 6267

Background Papers:

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Licensing Act 2003:

<http://www.legislation.gov.uk/ukpga/2003/17/contents>