
REPORT FOR: LICENSING PANEL

Date of Meeting: 13 August 2019

Subject: Application for review of the premises licence for Maya Pub, 3 Shaftesbury Parade, Shaftesbury Avenue, South Harrow, HA2 0AJ

Responsible Officer: Paul Walker – Corporate Director – Community Directorate

Exempt: No

Wards affected: Harrow on the Hill

Enclosures: Application for review (appendix 1)
Location map and image (appendix 2)
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 Maya Pub, 3 Shaftesbury Parade, Shaftesbury Avenue, South Harrow, HA2 0AJ on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

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>	Representation received
<i>Licensing authority</i>	No representations made

Representations from other persons

No representations received from other persons

Section 2 – Report

1. An application has been made on behalf of the Environmental Health Department to review the premises licence for Maya Pub, 3 Shaftesbury Parade, Shaftesbury Avenue, South Harrow, HA2 0AJ on the grounds of preventing crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm (appendix 1).
2. Description of premises
The premises are located on Shaftesbury Circle. The premises comprises of a three storey building. Primarily, the ground floor is a pub and the first and second floors are residential.
3. An image of the premises and a location map are provided at appendix 2.
4. Licensing history
A premises licence was first granted in 2005 through conversion. The premises licence was transferred to the current premises licence holder on 27 June 2017. The latest application to vary the designated premises supervisor was received on 20 March 2019
5. On 6 June 2018, a variation application was submitted to the authority to extend hours for hours open to public, late night refreshment and the retail sale of alcohol. As no representations were received, the application was granted as applied for.
6. The current premises licence and plan are attached at appendix 3.
7. Details of the application
Received: 18 June 2019

The application has been advertised in accordance with the prescribed regulations.

8. Representations

One representation has been received from the Metropolitan Police.

9. Officer observations

The application has been submitted to the authority by the Environmental Health Department as they have received multiple complaints about noise nuisance and anti-social behaviour that is allegedly directly linked to the premises. The application indicates that Enforcement Officers from the Environmental Health Department have witnessed ASB and Noise Nuisance, and have tried to work with the licensee to remedy the issues but despite this, the licence conditions are continually breached and the licensing objectives consistently undermined. The application requests the revocation of the premises licence or alternatively, to reduce hours for licensable activities and to remove all present conditions that appear on annex 2 and 3 and to impose new conditions that are suggested by the applicant. The Metropolitan Police recognise that the applicant has requested that the licence be revoked, however, where the panel would be minded not to do so, they have suggested a reduction in hours for licensable activities and additional conditions to be added. The police have also listed the incidents that have taken place at the premises since January 2019.

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

<p>Name: Jessie Man</p> <p>Date: 30 July 2019</p>	<p><input checked="" type="checkbox"/> on behalf of the Chief Financial Officer</p>
<p>Name: Andrew Lucas</p> <p>Date: 30 July 2019</p>	<p><input checked="" type="checkbox"/> on behalf of the Monitoring Officer</p>

Name: Paul Walker



Corporate Director

Date: 01 August 2019

Ward Councillors notified:

Yes

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>