
REPORT FOR: LICENSING PANEL

Date of Meeting: 15 August 2019

Subject: Application to vary the premises licence for Diya Food and Wine, 71 Station Road, Harrow, HA1 2TY

Responsible Officer: Paul Walker, Corporate Director – Community Directorate

Exempt: No

Wards affected: Marlborough

Enclosures: Variation application (appendix 1)
Premises licence and plan (appendix 2)
Location map (appendix 3)
Representations (appendix 4)

Section 1 – Summary

An application has been received to vary the premises licence for Diya Food and Wine, 71 Station Road, Harrow, HA1 2TY. Representations have been received from 2 responsible authorities who express concerns about the possible undermining of one or more of the licensing objectives should the licence be varied as sought.

Representations received

From	Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health	Representation received
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

None

Section 2 – Report

1. Kalia Limited have applied to vary the premises licence (appendix 1) for Diya Food and Wine, 71 Station Road, Harrow, HA1 2TY. A location map and image of the premises is available in appendix 3
2. The purpose of the variation seeks to increase the hours for the sale of alcohol to twenty four hours a day, seven days a week.
3. Description of the premises
4. Diya Food and Wine (formally known as Food City) is situated on Station Road Harrow which is a busy shopping parade. The parade is a mix of residential and commercial premises. The premises is a two storey building. The retail shop on is on the ground floor and a residential premises is on the first floor.
5. Details of application
6. Received: 20 June 2019
7. Closing date for representations: 18 July 2019
8. The application has been advertised in accordance with the prescribed regulations
9. Licensing Officer's observations
10. The premises licence was originally granted in October 2008. Applications to transfer and to vary the Designated Premises Supervisor (DPS) were received on 6 March 2013. The premises

licence was transferred to Kalia Limited and the DPS varied to Munish Kumar Kalia.

11. Two representations have been received in respect of the variation application, both from responsible authorities. The police recommend that the application be refused as they have concerns that should the application be granted, it would undermine the prevention of crime and disorder objective. They also indicate that the other three licensing objectives would be affected.
12. The police representation alleges that non-compliance with the current licence conditions were found on a visit to the premises on the 2 July 2019.
13. The representation from Environmental Health is based on the public safety objective. This suggests that if the application is granted then additional conditions should be added to the premises licence to further uphold the objective(s).
14. Operating schedule and conditions
15. 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.
16. 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.
17. 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.
18. When imposing conditions relating to CCTV the Panel should bear in mind the Information Commissioner's guidance that such conditions should only be imposed where it is justified to do so and in order to meet the licensing objectives.
19. 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.

20. Licensing policy

21. 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):

- degree of confidence in the management of the premises
- location of premises
- gang-related activity in the area
- management of waste particularly preventing fly-tipping
- commitment to reporting all crimes and anti-social behaviour associated with premises
- crime prevention audit conducted by police/professional security organisation
- staff training
- anti-theft provisions (eg time-locked safes, magnetic door locks, regular removal of cash from tills)
- suitable and sufficient security plan
- effective wind-down and dispersal policies
- use of CCTV
- noise mitigation measures associated with licensable activities, particularly near to residential properties
- provision of litter bins and litter patrols
- use of low-impact litter materials
- 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
- measures to protect children from being exploited or coming to harm

22. Legal implications

23. 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.

24. 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.

25. 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;

26. 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.

27. 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

28. 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)

29. 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.'

30. Financial Implications

31. There are no financial implications.

32. Appeals

33. 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 Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 5 August 2019		

Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 6 August 2019		

Name: Paul Walker	<input checked="" type="checkbox"/>	Corporate Director
Date: 5 August 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: Application form, Statutory Guidance.