

REPORT FOR: LICENSING Panel

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| Date: | 19 December 2019 |
| Subject: | Application for a new premises licence for Thai Kitchen, 21 High Street, Edgware, HA8 7EE |
| Responsible Officer: | Paul Walker, Corporate Director – Community Directorate |
| Exempt: | No |
| Enclosures: | Premises licence application & Plan (appendix 1) Location (GIS) Map (appendix 2) Representations (appendix 3) Agreed conditions (appendix 4) |

Section 1 – Summary

An application has been received for a new premises licence for Thai Kitchen, 21 High Street, Edgware, HA8 7EE. Representations have been received from 4 other persons who are members of the public which express concerns about the possible undermining of one or more of the licensing objectives should the licence be granted.

Section 2 – Report

- 2.1 Com Catering Limited have applied to for a new premises licence (appendix 1) for the premises located at 21 High Street, Edgware, Middlesex, HA8 7EE. A location map is available in appendix 2.

2.2 Licensable activities

The applicant has applied for the following licensable activities and timings:

| | <i>Proposed hours</i> | | | |
|------------|--|-------------------------------|----------------------------------|-----------------------------|
| | <i>Recorded Music (f), Anything similar to (e), (f) or (g)</i> | <i>Late night refreshment</i> | <i>Sale by retail of alcohol</i> | <i>Hours open to public</i> |
| Mon | 23:00 – 00:00 | 23:00 – 00:00 | 12:00 – 00:00 | 12:00 – 00:30* |
| Tue | 23:00 – 00:00 | 23:00 – 00:00 | 12:00 – 00:00 | 12:00 – 00:30* |
| Wed | 23:00 – 00:00 | 23:00 – 00:00 | 12:00 – 00:00 | 12:00 – 00:30* |
| Thu | 23:00 – 00:00 | 23:00 – 00:00 | 12:00 – 00:00 | 12:00 – 00:30* |
| Fri | 23:00 – 01:30* | 23:00 – 02:00* | 12:00 – 01:30* | 12:00 – 02:00* |
| Sat | 23:00 – 01:30 | 23:00 – 02:00* | 12:00 – 01:30* | 12:00 – 02:00* |
| Sun | 23:00 – 00:00 | 23:00 – 00:00 | 10:00 – 00:00 | 12:00 – 00:30* |

*Indicates licensable activity carries on to the following morning

Although recorded music to terminate at 21:00 hours each day for outdoor areas, this is not licensable until 23:00 hours. Recorded music for indoor areas is still applicable.

Special Extensions:

The are no special extension applied for on this application

2.3 Description of premises

This is a former public house known as The Change of Hart that has been converted into a restaurant with a focus on oriental foods, al-fresco dining and world wines.

2.4 Officers' observations

This premises is located on High Street, Edgware which comprises of a mix of residential and commercial properties.

2.5 The four representations received from other persons concentrate on the undermining of all four licensing objectives. In summary, the representations raise concern about issues surrounding a possible increase anti-social behaviour, noise nuisance and the reduction of the peaceful amenity of the persons that live or work in the area surrounding the premises.

2.6 The police have made a representation which was subsequently withdrawn as the applicant has agreed to all of the conditions that have been suggested by them. A copy of the agreed conditions can be found on appendix 4 of this report.

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

This premises was previously known as the Change of Hart public house. This benefited from a premises licence. The licensee's (Spirit Pub Company) surrendered this licence on 21 November 2019.

2.9 Proposed Designated premises supervisor

Sa'eed Sakib Kazmi

2.10 Details of application

Received: 30 October 2019

Closing date for representations: 27 November 2019

The application has been advertised in accordance with the prescribed regulations

2.11 Representations

Representations have been received from four other persons, these being members of the public.

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 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.

2.16 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):

- degree of confidence in the management of the premises
 - location of premises
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- 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
- responsible alcohol sales including provision of customer information and staff training
- membership of the Brent and Harrow Trading Standards Responsible Trading Scheme
- anti-theft provisions (eg time-locked safes, magnetic door locks, regular removal of cash from tills)
- use of information to ban potential causes of alcohol-related crime and disorder, such as liaison with police about street drinkers, use of banning schemes
- restrictions on sales of certain alcohol where appropriate (eg not selling high-strength alcohol where street drinkers may be prevalent)
- position, display and promotion of alcohol
- clear identification of staff authorized to sell alcohol
- age verification policies over and above the mandatory minimum
- procedures to deter and report under-age and proxy alcohol sales

2.17 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.

2.18 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.

2.19 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 grant the licence subject to:

(i) the conditions mentioned in subsection (2) (a) of the Licensing Act 2003 modified to such an extent as the authority considers for the promotion of the licensing objectives, and

(ii) any condition which under section 19, 20 or 21 of the Licensing Act 2003 be included in the licence.

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates.

(c) to refuse to specify a person in the licence as the premises supervisor.

(d) to reject the application.

- 2.22 It should be noted with all options that –
- clear reasons should be given for the decision.
 - As per Section 1.16 of the statutory guidance, 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 or more 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

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|------------------------|-------------------------------------|--|
| Name: Jessie Man | <input checked="" type="checkbox"/> | on behalf of the* Chief Financial Officer |
| Date: 11 December 2019 | | |
| Name: Andrew Lucas | <input checked="" type="checkbox"/> | on behalf of the* Monitoring Officer |
| Date: 11 December 2019 | | |

| | | |
|-------------------|-------------------------------------|--------------------|
| Name: Paul Walker | <input checked="" type="checkbox"/> | Corporate Director |
| Date: | | |

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| 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.