

Report for: Licensing Panel

Date of Meeting:	6 September 2021
Subject:	Application vary the premises licence for The Man of Aran, 424-426 Alexandra Avenue, Harrow, Middlesex, HA2 9TW
Responsible Officer:	Michael Butler, Interim Director of Environmental Services
Exempt:	No
Wards affected:	Rayners Lane
Enclosures:	Appendix 1 - Variation application and plans Appendix 2 - Premises licence and current plan Appendix 3 - Location map Appendix 4 - Representations Appendix 5 - Agreed conditions with police Appendix 6 - Proposed conditions Section M of the application summarised–

Section 1 – Summary

An application has been received to vary the premises licence for The Man of Aran, 424-426 Alexandra Avenue, Harrow, Middlesex, HA2 9TW. One letter of representation has been received which contains 8 signatories 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	No representations received
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 received

Representations from other persons

1. One letter of representation which contains eight signatories has been received.

Section 2 – Report

2. Million Stars London Limited has applied to vary the premises licence (appendix 1) for The Man of Aran, 424-426 Alexandra Avenue, Harrow, Middlesex, HA2 9TW.. A location map and image of the premises is available in Appendix 3
3. The premises was a traditional public house and it is being converted into a fine dining restaurant and wine bar. As the operation of the premises is changing, the applicant has offered updated conditions on his application form – these are listed on section M of the application and appendix 6 of this report..
4. The police have worked with the applicant and have agreed a set of conditions and reduced hours for hours open to public and licensable activities.. These appear under appendix 5 of the report.

5. The applicant has also offered conditions. As these conditions are duplicated under each of the licensing objectives, they are summarised under appendix 6 of the application.
6. The current times and licensable activities authorised by the premises licence:

	Hours open to public	Live music and Recorded music	Sale of retail alcohol
Monday	10:30 – 23:20	10:30 – 22:30	10:30 – 23:00
Tuesday	10:30 – 23:20	10:30 – 22:30	10:30 – 23:00
Wednesday	10:30 – 23:20	10:30 – 22:30	10:30 – 23:00
Thursday	10:30 – 23:20	10:30 – 22:30	10:30 – 23:00
Friday	10:30 – 23:20*	10:30 – 22:30	10:30 – 23:00
Saturday	10:30 – 23:20*	10:30 – 22:30	10:30 – 23:00
Sunday	10:30 – 22:50	10:30 – 22:00	10:30 – 22:30

Seasonal variation/non standard times:

The Sale by retail of alcohol can be extended between the terminal hour on New Year's Eve and the commencement hour the following morning.

The application proposes the following licensable activities and times:

	Hours open to public	Late Night Refreshment	Sale of retail alcohol
Monday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Tuesday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Wednesday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Thursday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Friday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Saturday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*
Sunday	10:00 – 01:00*	23:00 – 01:00*	10:00 – 01:00*

“*” indicates that the licensable activity will continue into the following morning.

There are no additional seasonal variations or non standard timings proposed.

In addition to the above, the application proposes to remove all conditions on annex 2 and condition 3 of annex 3 of the premises licence and replace them with alternative wording (appendix 6)

The Premises Licence currently authorises the sale of retail alcohol for consumption on and off the premises. As a result, live music, and recorded music are only licensable between 23:00 and 08:00 each day. As no amendment to the times of these activities has been made, these can be removed from the licence.

7. Section 15 of this report gives more information about the prevention of public nuisance.
8. Details of application
9. Received: 12 May 2021
10. Closing date for representations: 09 June 2021, due to an issue with the advertisement of the application this was extended to 2 August 2021.
11. The application has been advertised in accordance with the prescribed regulations
12. Under the relevant legislation (Licensing Act 2003 (Hearings) Regulations 2005) the hearing should be heard within 20 working day starting the day after the date for last representation. Due to exceptional circumstances within the Licensing team this was not possible and utilising the power within Regulation 11 of The Licensing Act 2003 (Hearings) Regulations 2005 it was deemed necessary in the public interest to extend the time period and for the hearing to take place on the 6th September 2021.
13. Licensing Officer's observations
14. On 12 May 2021, The licensing authority received and application to transfer the premises licence from Btittannia Pubs Limited to Million Stars of London Limited. At the same time, an application to vary the designated premises supervisor (DPS) was also received. The new DPS is named as Mr Satis Vijayendran.
15. The Licensing Authority received a letter of representation which is support by eight members of the public who live above and around the premises. The representation claims that there is a history of late night related disturbance, noise, nuisance behaviour, drunkenness, and anti-social behaviour.
16. The panels attention is drawn towards the statutory guidance regarding public nuisance:
 - 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.16 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.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing

authorities and responsible authorities will need to balance these issues.

- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night

17. Operating schedule and conditions

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Licensing policy

24. 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

25. Legal implications

26. 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.

27. 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.

28. 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;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

29. 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.

30. 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

31. 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)

32. 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.'

33. Financial Implications

34. There are no financial implications, other than a small fee income if the new licence is granted.

35. Appeals

36. 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

Dawn Calvert

Signed by the Chief Financial Officer

Date: 31/08/2021

Statutory Officer: Baljeet Virdee

Signed on *behalf of/by the Monitoring Officer

Date: 31/08/2021

Statutory Officer: Emma Phasey

Head of Licensing and Enforcement

Date: 31/08/2021

Mandatory Checks

Ward Councillors notified: YES

Section 4 - Contact Details and Background Papers

Contact: Emma Phasey, Head of Licensing and Enforcement,
emma.phasey@harrow.gov.uk

Background Papers: Revised Guidance issued under section 182 of the
Licensing Act 2003.