

Report for: Licensing Panel

Date of Meeting:	8 October 2024
Subject:	Application for a variation to the premises licence for IZZY FOOD CENTRE, 380 Kenton Road, Harrow, Harrow, HA3 8DP
Responsible Officer:	Cathy Knubley, Acting Strategic Director of Culture, Environment and Economy
Exempt:	No
Wards affected:	Kenton East
Enclosures:	Appendix 1 – Existing premises licence and application to vary a premises licence Appendix 2 – Representations Appendix 3 – Location map

Section 1 – Summary

An application for a variation to the premises licence under Section 34 of the Licensing Act has been received for IZZY FOOD CENTRE, 380 Kenton Road, Harrow, HA3 8DP

Representations have been received from a Councillor representing members of the public living or working in the vicinity of the premises.

The representations express concerns about the possible undermining of one or more of the licensing objectives should the variation be granted.

Section 2 – Report

- 2.1 This report asks the Sub-Committee to consider an application to vary a premises licence for IZZY FOOD CENTRE, 380 Kenton Road, Harrow, Harrow, HA3 8DP (the “**Premises**”).
- 2.2 CB Market Ltd (the “**Applicant**”) submitted an application on 15 August 2024 for a variation of the premises licence for the Premises and copies of the current premises licence and the application to vary the premises licence are attached as Appendix 1.
- 2.3 The Premises are currently open 24 hours and the existing licence already allows for the sale of alcohol for consumption off the premises between 06:00 to 23:00 Monday to Sunday. The Applicant has applied extend the times authorised for the sale of alcohol for consumption off the premises as follows:

	Sale of alcohol (off sales)
Monday	00:00 – 23:59
Tuesday	00:00 – 23:59
Wednesday	00:00 – 23:59
Thursday	00:00 – 23:59
Friday	00:00 – 23:59
Saturday	00:00 – 23:59
Sunday	00:00 – 23:59

Description of premises

- 2.4 A location map for the Premises is shown in Appendix 3
- 2.5 The Premises is an off licence and local convenience store located on Kenton Road. This is an area of mixed commercial and residential premises.

Representations

- 2.6 A ward Councillor for Kenton West has made representations, and these can be found in Appendix 2
- 2.7 The representation reflects concerns with the upholding of the four licencing objectives which are the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. The representation focuses on the possible risk of ASB, noise nuisance and general unlawful behaviour.
- 2.8 Where a relevant representation is submitted, under section 35(3) of the Licencing Act 2003 the Authority must hold a hearing to consider such

representations, unless the authority, the Applicant and each person who has made representations agree that a hearing is unnecessary.

- 2.9 Relevant representations mean those which are about the likely effect of the grant of the application on the promotion of the licensing objectives, and have been made in time, not withdrawn, and in the case of representations made by a person (other than a responsible authority), are not considered by the Licensing Authority to be frivolous or vexatious.
- 2.10 The representation has been made in relation to the Application by a Ward Councillor acting on behalf of local residents.

Officer Observations

- 2.11 The Premises has been operating with no reported concerns or other issues with regards to licensable activities since the grant of the current licence with extensive conditions on the 19 February 2024.
- 2.12 The Representation that has been received is mainly based on the possible increase in anti-social behaviour, an increase in public nuisance and a risk to public safety should the extended times for the retail sale of alcohol be granted.
- 2.13 Consideration should be given on how these issues could directly affect the prevention of crime and disorder, public safety and the prevention of public nuisance objectives should the application be granted.
- 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.
- 2.15 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.
- 2.16 The Panel has the discretion to add to or modify conditions in light of the representations where it is appropriate to do so to promote the licensing objectives.

Licensing policy

- 2.17 In considering the Application shown in Appendix 1, the Panel will consider the relevant section for variations in the Council's Statement of Licensing Policy. The Panel has discretion to depart from the guidelines, which are designed with consistency and transparency of decision-making in mind.

Statutory guidance

- 2.18 The Panel's attention is drawn to section 2 of the current Statutory Guidance which refers to the four licensing objectives and relevant considerations regarding the same.
- 2.19 Full copies of the Council's Statement of Licencing Policy, hearing procedure and Statutory Guidance to the Licensing Act 2003 will be available at the Panel Hearing or in advance if so required.

Harrow licensing Policy

2.20 The Licensing Authority's Statement of Licensing Policy sets out the matters that the Panel may take into account when considering representations. In particular, the Panels attention is drawn to section 5 of the Policy, which states factors the Panel can take in to account when considering the licensing objectives, (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

3. Alternative Options considered

- 3.1 The Licensing Panel is required by the Licensing Act 2003 to take one of the options listed below as it considered appropriate for the promotion of the licensing objectives.

- 3.2 The options are:
- (a) to grant the application, in whole or part, and modify the conditions of the licence;
 - (b) to reject the application in whole or in part.

3.3 For the purposes of 3.2(a) above, the conditions of the licence are modified if any of them are altered or omitted, or any new conditions added.

4. **Legal implications**

4.1 The Licensing Panel is required to hold a hearing to consider any relevant representations made in relation to a 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.

4.2 Under Part 3 of the Council's Constitution (16 May 2024) the Licensing Panel has the power to determine applications and to make Orders in respect of licences.

4.3 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.

4.4 Having considered those relevant matters, the Licensing Panel is required to take such steps (as outlined in section 3.2) as it considers appropriate for the promotion of the licensing objectives.

4.5 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.

4.6 In addition to determining the application in accordance with the legislation, Members must have regard to the –

- (a) common law rules of natural justice
- (b) provisions of the Human Rights Act 1998
- (c) considerations in section 17 of the Crime and Disorder Act 1998

4.7 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)

4.8 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.

5 Financial Implications

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

Risk Management Implications

Risks included on corporate or directorate risk register? **/No**

Separate risk register in place? **/No**

The relevant risks contained in the register are attached/summarised below. **No**

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Failure to determine the application for a new premises licence would put the Licensing Authority in breach of its obligations under the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.	<ul style="list-style-type: none">The Authority must determine this application within the timescales set by prescribed regulations.	Green

Section 3 - Statutory Officer Clearance

Statutory Officer: Caroline Parker

Signed on *behalf of/by the Chief Financial Officer

Date: 30th September 2024

Statutory Officer: Baljeet Virdee

Signed on *behalf of/by the Monitoring Officer

Date: 30th September 2024

Chief Officer: Cathy Knubley

Signed by the Strategic Director of Culture, Environment and Economy

Date: 23 September 2024

Mandatory Checks

Ward Councillors notified: Yes.

Section 4 - Contact Details and Background Papers

Contact:

Alan Riley, Enforcement Officer, alan,riley@harrow.gov.uk

Background Papers:

Licensing Act 2003 (as amended) - [Licensing Act 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2003/30)

The Licensing Act 2003 (Hearings) Regulations 2005 - [The Licensing Act 2003 \(Hearings\) Regulations 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2005/1000)

Licensing Act 2003 Statutory Guidance (issued December 2023) - [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/guidance/2023-12-01-revised-guidance-issued-under-section-182-of-the-licensing-act-2003)

Harrow Council Statement of Licensing Policy - [Statement of licensing policy \(harrow.gov.uk\)](https://www.harrow.gov.uk/licensing-policy)