

<b>Meeting:</b>	Licensing Panel
<b>Date:</b>	20 <sup>th</sup> December 2006, 19.30 hrs CR 1+2
<b>Subject:</b>	Application to vary a Premises Licence.
<b>Responsible Officer:</b>	Chief Environmental Health Officer
<b>Contact Officer:</b>	P Sivashankar, Service Manager, ext (8736) 6237
<b>Portfolio Holder:</b>	Councillor Eileen Kinnear
<b>Key Decision:</b>	No
<b>Status:</b>	Public
<b>Enclosures</b>	

**Section 1: Summary**

**Decision Required**

Members are asked to determine the application in accordance with the guidance in Section 2.5.

**Reason for report**

The application to vary a Premises Licence issued under the Licensing Act 2003 to 'South Harrow Food and Wine,' 234-236 Northolt Road South Harrow, HA2 8DU, has received representations from a Responsible Authority. In line with the Council's Licensing Policy and delegation of Licensing functions, all applications with unresolved representations are to be dealt by the Licensing Panel.

**Representations Received**

<b>From</b>	<b>Relevant Representations details</b>
The Planning Authority	No representations received
Health & Safety	No representation received
Environmental Health Authority (Pollution and environmental enforcement)	No representations received
Trading Standards	No representations received
The Area Child Protection Service	No representations received
LFEPA	No representations received
Metropolitan Police	<b>Representation Received</b>

## Representation from interested parties

From	Relevant Representations details
Interested Party	No representations received

## Benefits

The hearing provides the applicant, persons making the representations and the Licensing Authority an opportunity to engage in constructive dialogue to determine the application in an open public forum.

## Cost of Proposals

None

## Risks

If any party is aggrieved with the decision on one of the grounds set out in paragraphs 1 and 4 in Schedule 5 to the Licensing Act 2003, they can apply to the Magistrates Court for a re-hearing. Such appeals are by way of rehearing. The Appeal period is 21 days from notification of the decision.

## Implications if recommendations rejected

N/A

## Section 2: Report

### 2.1 Brief History

2.1.1 Application has been made by Messrs. Paramasivam Mathivanam and Sandirasegary Thamilgnanan to vary the premises licence held for 'South Harrow Food and Wine,' a general store / off licence situated at 234-236 Northolt Road, South Harrow, HA2 8DU. The establishment currently holds a licence for the sale of alcohol for consumption off the premises; a copy is included in this report. Briefly, the licence is for the sale of alcohol from 08.00 – 23.00 Monday to Saturday, and 10.00 to 22.30. There are no 'hours open to the public' as it was a grandfather rights conversion.

2.1.2 The suggested new operating routine can be found in the application form in section M (supply of alcohol.) The times suggested are as follows:

Supply of alcohol                      Monday to Sunday (incl.) 08.00 – 07.59

This obviously means the premises wishes to open and operate for 24 hrs a day, 7 days a week; this is shown section in part 3 of the application form. The 'hours open to the public' (Section O) reflect this wish. The steps taken to promote the licensing objectives are at 'P.' The panel may wish to decide if these steps are adequate.

The premise operates as a general store, and is situated in a row of shops in Northolt Road, South Harrow, near the junction with Eastcote Lane and adjacent to South Harrow Underground Station. It has held a Justices' Licence since 2000. There is residential accommodation provided above most of the premises, which is likely to be occupied. There are streets containing other residential housing nearby. A map showing the area is attached to the report.

The steps to be taken by the licensee to uphold the licensing objectives are attached and interpreted for use in Annex 2. The panel may wish to consider if these are valid and coherent proposals.

### 2.1.3 Policy Implications

In relation to the Council's policy at paragraph 8.3 and 8.8, the applicant has addressed how they intend to promote the licensing objectives; however members may consider attaching additional conditions.

## 2.2 Representations

2.2.1 The application has received representations from one Responsible Authority (the Police.) Copies of these representations are attached to this report.

## 2.3 Consultation

2.3.1 The application was advertised in accordance with the Regulations under the Licensing Act 2003.

## 2.4 Financial Implications

None.

## 2.5 Legal Implications

2.5.1 The Licensing Panel is required to hold a hearing to consider the relevant representations unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.5.2 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 necessary to promote the four licensing objectives.

2.5.3 Having considered those relevant matters, the Licensing Panel is required to take such of following steps (if any) as it considers necessary for the promotion of the four licensing objectives –

- a. To modify the conditions of the licence.
- b. To reject the whole or part of the application

2.5.4 It should be noted with all options that –

- a. Clear reasons would have to be given to the applicant and to the interested party if the application were granted, refused or, if additional conditions were imposed.
- b. Any additional conditions should be practical and enforceable.
- c. 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.

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

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

2.5.6 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 and Freedoms. 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).

2.6 Equalities Impact

N/A

2.7 Section 17 Crime and Disorder Act 1998 Considerations

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, and the need to do all that it reasonably can to prevent crime and disorder in its area.

The Borough Commander has made a representation through Sgt. Davis, Police Licensing Officer on the Crime Prevention objective outlining measures to prevent crime and disorder.

**SECTION 3 - STATUTORY OFFICER CLEARANCE**

Chief Finance Officer	<input style="width: 40px; height: 15px;" type="text"/> Name:.....
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	Date: .....
Monitoring Officer	<input style="width: 40px; height: 15px;" type="text"/> Name: ..... Date: .....

### **3.1: Supporting Information/ Background Documents**

1. Application
2. Representations
3. Annex 2 Conditions drawn from the Operating Schedule provided by the Applicant
4. Mandatory Conditions that would be attached to the licence if granted

## **Annex 2 – Conditions consistent with the operating Schedule**

### **General**

*A Personal Licence holder will be on the premises at all times.*

### **The prevention of crime and disorder**

*The CCTV system to be maintained and operated in good order and to the satisfaction of Met Police Crime Prevention Officer's reasonable requests. The medium upon which the images are recorded will be clearly identifiable, stored securely, retained for a period of not less than 31 days, and it will be made available to Council and Police Officers on request*

### **Public Safety**

*The monitored security system should incorporate fixed personal panic attack buttons for the use of staff behind the counter.*

### **The prevention of public nuisance**

*Clear signage at all exits requesting patrons to respect the neighbouring residents and to leave quietly*

*All doors and windows shall be kept closed after 2300*

*Deliveries to the premises and other vehicles providing services to the premises, to be undertaken during daylight hours.*

### **The protection of children from harm**

*A 'challenge 21' policy to be used.*

## **MANDATORY CONDITIONS**

### **19 Mandatory conditions where licence authorises supply of alcohol**

- (1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
- (2) The first condition is that no supply of alcohol may be made under the premises licence-
  - (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **20 Mandatory condition: exhibition of films**

- (1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- (2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- (3) Where-
  - (a) The film classification body is not specified in the licence, or
  - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,Admission of children must be restricted in accordance with any recommendation made by that licensing authority.
- (4) In this section-  
"Children" means persons aged under 18; and

"Film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

## **21 Mandatory condition: door supervision**

- (1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
- (2) But nothing in subsection (1) requires such a condition to be imposed-
  - (a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) In respect of premises in relation to-
    - (i) Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- (3) For the purposes of this section-
  - (a) "Security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
  - (b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## **SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS**

### **Contact:**

P. Sivashankar, Licensing Services Manager

### **Background Papers:**

Application  
Representations  
Map of the area  
Copy of licence

**IF APPROPRIATE, does the report include the following considerations?**

1.	Consultation	YES/ NO
2.	Corporate Priorities	YES / NO
3.	Manifesto Pledge Reference Number	N/A