

<b>Meeting:</b>	Licensing Panel
<b>Date:</b>	20 <sup>th</sup> December 2006, 19.30, 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 Licensing Act 2003 to 'The Shawl,' 320 Northolt Road, South Harrow HA2 8EE, has received representations from a number of Responsible Authorities and Interested Parties. As per 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 representation received
Health & Safety	No representation received
Environmental Health Authority (Pollution and environmental enforcement)	<b>Representations received</b>
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	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 John Joseph and Seamus Anthony McCabe to vary the premises licence held for 'The Shawl,' a public house situated at 320 Northolt Road, South Harrow HA2 8EE. The premises currently hold a licence for the sale of alcohol for consumption on and off the premises and for the unrestricted playing of recorded music; a copy of the licence with the opening hours is included in this report. Briefly, the premises hold a licence for the sale of alcohol from 10.00 to 23.00, Monday to Saturday and 12.00 (12MD) to 22.30 on Sunday. There are no current '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 sections E (live music) G (performance of dance) and J (provision of facilities for dancing.) Please note a later alteration to the application, which removes the request to extend the hours. The times suggested are as follows:

Live music	Monday to Saturday	21.00 – 23.00
	Sunday	20.30 – 22.30

Performance of dance	Monday to Saturday	21.00 – 23.00
	Sunday	20.30 – 22.30
Prov facilities for dancing	Monday to Saturday	21.00 – 23.00
	Sunday	20.30 – 22.30

The hours open to the public reflect the above times for the supply of alcohol, i.e. Monday to Saturday 10.00 – 23.00, Sunday 12.00 (MD) – 22.30. This therefore does not allow a ‘drinking up’ time. The steps taken to promote the licensing objectives are at ‘P,’ which remain unchanged. It must be noted that because of these later alterations, the Planning Dept. withdrew any observations on the application.

The specific requests for the variation are as follows:

- ‘Premises may offer private entertainment only, without restriction’ to be removed to allow provision of live music, performance of dance and the provision of facilities for dancing.’

The premise operates as a public house, and is situated in a row of shops in Northolt Road, South Harrow, at the junction with Valentine Road. It has held a Justices’ Licence since at least 1995. There is residential accommodation provided above most of the premises, which are likely to be occupied. There are streets containing residential housing nearby. A map showing the area is attached to the report.

Under the previous licensing regime, the premises were allowed to have live music through exemption under that Act, and during this period the ‘out of hours’ noise service and the licensing team received complaints from local residents about music noise emanating from the premises. Since the new licensing laws, these premises have lost this exemption to provide live music and on one occasion had to be instructed on these changes. Since this time, there have been no further complaints. The suitability of the premises to provide live amplified music without causing a nuisance is a matter for the applicant to demonstrate through his operating schedule, and evidence through statements by noise consultants. Unfortunately no such information was available at the time of writing this report.

### 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 two Responsible Authorities, and a number of interested parties. 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 type="checkbox"/> Name:.....
	Date: .....
Monitoring Officer	<input type="checkbox"/> Name: .....
	Date: .....

**3.1: Supporting Information/ Background Documents**

1. Application (and amendment)
2. Representations and letters of objection to the application.
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**

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

### **Public Safety**

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

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

No additional steps have been offered under all headings

## **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 form (and amendment)  
Copies of Representations  
Copies of letters from Interested Parties.  
Map of the area.  
Current 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