

Meeting:	Licensing Panel
Date:	16 October 2007
Subject:	Application to vary a Premises Licence for 'Blues,' 86 High Street, Harrow-on-the-Hill. HA1 3LW.
Key Decision	No
Responsible Officer:	Chief Environmental Health Officer
Portfolio Holder:	Councillor Susan Hall
Exempt:	No
Enclosures	Copy of Premises Licence, Application, Plan, Map(s) of area, Representation, letters of objection.

Section 1: Summary

Recommendations - Decision Required

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

Reason for report and recommendation

The application to vary a premises licence issued under the Licensing Act 2003 to 'Blues' (previously Gauchos) 86 High Street, Harrow-on-the-Hill, HA1 3LW, has attracted representations from a Responsible Authority and a number of 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

From	
The Planning Authority	No representation received
Health & Safety	No representation received
Environmental Health Authority (Pollution and environmental enforcement)	No representation received
Trading Standards	No representation received
The Area Child Protection Service	No representation received
LFEP A	No representation received
Metropolitan Police	Representation received

Representation from interested parties

From	
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 appeal to the Magistrates Court. 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 Current Situation

2.1.1 Application has been made by Mr. Guy Marx to vary the Premises Licence held for 'Blues,' a restaurant type premise at 86 High Street, Harrow-on-the-Hill, HA1 3LW. The premises currently hold a Premises Licence; a copy of the licence is included in this report. Please note the change of name from 'Gauchos' to 'Blues.' Briefly, the premises hold a licence for:

Recorded music	Monday to Sunday	Unrestricted
LNR	Monday to Saturday Sunday	23.00 – 00.30 23.00 – 12MN
Supply of alcohol	Monday to Saturday Sunday	10.00 – 12MN 10.00 – 23.30

No alcohol is to be sold after 23.00 other than ancillary to a table meal.

2.1.2 There are no 'hours open to the public' as it was a grandfather rights conversion.

2.1.3 The suggested new trading routine can be found in the application form in sections E (live music) F (recorded music) I (Provision of facilities for making music) L (Late Night Refreshment) and M (supply of alcohol.) The times suggested are as follows:

Live music	Monday to Saturday	10.00 – 02.00
	Sunday	10.00 – 12MN
Recorded music	Monday to Saturday	10.00 – 02.30
	Sunday	10.00 – 12MN
Facilities for making music	Monday to Saturday	10.00 – 02.00
	Sunday	10.00 – 12MN
LNR	Monday to Sunday	23.00 – 12MN
Supply of alcohol	Monday to Saturday	10.00 – 02.00
	Sunday	10.00 – 12MN

Note that live music and the provision for it, is for 'on' the premises only. Other activities are for both 'on' and 'off.'

The steps taken to promote the licensing objectives are at 'P.' The panel may wish to decide if these steps are adequate.

The prospective 'hours open to the public' (section 'O') have a half hour added to the latest times above, which would allow a 'drinking up' time.

The premise operates as a restaurant, and is situated in the High Street, Harrow-on-the-Hill, on the junction with Byron Hill Road. It has held a Justices' Licence since at least 1990. There are streets containing residential housing nearby. A map showing the area is attached to the report.

The reason given for the variation under Part 3 of the application form is

- To extend the permitted hours for sales of alcohol in already licensed premises.
- To remove two conditions from an already licensed premises, i.e.
 - a) Remove the condition that alcohol can only be served ancillary to a meal after 23.00
 - b) Remove the condition that draught beer shall not be sold or supplied on the premises.
- To provide a piano within the premises.

- To provide live music.

There is an administrative issue with the Premises Licence. There is a condition shown that requires alcohol to be served ancillary to a meal after 23.00. This is in fact inaccurate, the premises held a full Justices Licence. This is also enclosed.

Additional note

At a very late stage (just prior to this report being printed,) Mr. Marx changed his application. The facilities being applied for were reduced, so this has been accepted in line with our normal operating arrangements. The changes are:

Live Music

Monday to Thursday	10:00 to 00:30
Friday and Saturday	10:00 to 01:30
Sunday	10:00 to 00:30

Recorded Music

Monday to Thursday	10:00 to 00:30
Friday and Saturday	10:00 to 01:30
Sunday	10:00 to 00:30

Facilities for making music

Monday to Thursday	10:00 to 00:30
Friday and Saturday	10:00 to 01:30
Sunday	10:00 to 00:30

Late Night Refreshment

Monday to Thursday	23:00 to 00:30
Friday and Saturday	23:00 to 01:30
Sunday	23:00 to 00:30

Sales of alcohol

Monday to Thursday	10:00 to 00:00
Friday and Saturday	10:00 to 01:00
Sunday	10:00 to 00:00

Hours open to the public

Monday to Thursday	10:00 to 00:30
Friday and Saturday	10:00 to 01:30
Sunday	10:00 to 00:30

Unfortunately as a consequence of this late change, it has not been possible to contact all parties objecting to the application to take views on whether or not they wish to proceed with their objections. This will be attempted, but there may be some administrative matters to clarify in any Panel meeting. This document is included in this report.

2.1.4 Licensing 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.

2.1.5 Representations

The application has received a representation from one Responsible Authority, (the Police.) There are copies of the letters of objection from interested parties attached to this report.

2.1.6 Consultation

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

2.2 Why a change is needed

Not applicable

2.3 Main options

Not applicable

2.4 Other options considered

Not applicable

2.5 Resources, costs and risks

Not applicable

2.6 Staffing / workforce

Not applicable

2.7 Equalities Impact

Not applicable

2.8 Legal Implications

2.8.1 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.

2.8.2 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.

2.8.3 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

If the Panel takes neither of these steps, the application will be granted as sought.

2.8.4 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.

2.8.5 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).

2.8.6 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).

2.9 Community safety

2.9.1 Please refer to the Licensing objectives, and to section 17 Crime and Disorder Act 1998 considerations, which are:

- a) 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.

2.10 Financial Implications

No direct costs, but other reasonable financial inferences may be drawn. Longer hours and changes in conditions require alterations in enforcement activity from both the Police and the Council, which will radically alter costs and personnel resources. These additional costs may be borne by the Environmental Health budgets and may lead to savings elsewhere.

2.11 Performance issues

Not applicable

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/>	Name: Sheela Thakrar
		Date: 28 th September 2007
Monitoring Officer	<input type="checkbox"/>	Name: Helen White
		Date: 27 th September 2007

3.1: Supporting Information

Annex 2 – Conditions consistent with the operating Schedule

General

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;

recordings to be securely stored for an appropriate period, and be made available to Council and Police Officers on request

Public Safety

The prevention of public nuisance

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

The protection of children from harm

The premises shall operate a “challenge 21” policy for sale of alcohol

It will be taken that the other conditions on the licence remain, with the possible exception of those where a change has been requested.

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

Report, incl. conditions drawn from the Operating Schedule provided by the Applicant (Annex 2) and Mandatory Conditions that would be attached to the licence if granted.

Copy of Premises Licence

Application

Plan of premises

Maps of area

Contact: P. Sivashankar, Licensing Services Manager, x 6237

IF APPROPRIATE, does the report include the following considerations?

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