

Meeting:	Licensing Panel
Date:	19 th March 2009
Subject:	Application for a review of the Premises Licence held by Abercorn Arms PH, 78 Stanmore Hill, Stanmore, HA7 3BU
Key Decision:	No
Responsible Officer:	Chief Environmental Health Officer
Contact Officer:	P Sivashankar, Service Manager, ext 6237
Portfolio Holder:	Councillor Susan Hall
Exempt:	No
Status	Public

Section 1: Summary and Recommendations

Decision Required

Members are asked to determine the review application in accordance with the guidance below.

Reason for report

An application was made by Mrs Serra, a local resident, for a review of the premises licence under one of the licensing objectives - **the prevention of public nuisance**. Additional representations were also received from Police Sergeant Carl Davis of the Metropolitan Police, Mr. Edward Davis, Environmental Protection Officer, Harrow Council and a local resident. The Authority must hold a hearing to consider the application and relevant representations.

Representations Received

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

Representation from interested parties

From	Relevant Representations details
Interested Party	Representation Received

Benefits

The hearing provides the Premises Licence Holder, the person making the review application, persons making representations and the Licensing Authority, an opportunity to engage in constructive dialogue to determine the application for review, in an open public forum.

Cost of Proposals

N/A

Risks

To comply with the Licensing Act 2003 and the Regulations, the Authority must hold a hearing to consider the application for Review.

Implications if recommendations rejected

N/A

Section 2: Report

2.1 Current Situation

2.1.1 There is a Premises Licence in force at the 'Abercorn Arms PH, 78 Stanmore Hill, Stanmore, HA7 3BU': a copy of the Premises Licence is attached to this report. Briefly, the licence authorises the following licensable activities:

Sale by retail of alcohol	Monday to Saturday	1000 – 0000
	Sunday	1000 – 2330

Late Night Refreshment	Monday to Sunday	1000 - 0000
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The Premises Licence was granted during the transitional period when application was made for conversion of the Justices Licence. At this time the applicant sought a simultaneous variation to extend the hours for the sale of alcohol and the premises licence was granted with the above licensable activities for the hours detailed.

2.1.2 A review application has been made by Mrs G. Serra of 82 Stanmore Hill, Stanmore, relating to the prevention of public nuisance. Sergeant Carl Davis of the Metropolitan Police and Mr Edward Davis, Environmental Protection Officer of Harrow Council have made representations in support of the review application. Mrs Nathan, a local resident has also submitted a representation in support of the

review application. A copy of the application for the review and the supporting representations are attached to this report.

2.1.3 The premise is situated at 78 Stanmore Hill, Stanmore. There is a residential street, Hill Close, situated south of the premises. There is a property immediately adjacent to the premises' front car park to the north and a property adjacent to the rear of the premises' rear car park to the north.

A location map is attached to this report.

2.2 Representations

Mrs G. Serra, a local resident submitted the review application. Sergeant Carl Davis of the Metropolitan Police and Mr Edward Davis, Environmental Protection Office of Harrow Council have made representations in support of the review application. Mrs Nathan, a local resident has also submitted representations in support of the review application. Copies of these representations are attached to this report.

2.3 Consultation

The review application was advertised at the council office and on the premises in accordance with the regulation under the Licensing Act 2003.

2.4 Licensing Policy Implications

The government has issued Guidance pursuant to section 182 of the Licensing Act 2003 that deals with reviews in paragraphs 11.1 – 11.28. . A copy of that Guidance is attached to this report. The Guidance includes the following in relation to determining whether a review application is a repetition, as referred to in paragraph 2.5.5 below –

“Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.”

It also includes the following to be used as guidance when dealing with reviews from Interested Parties

‘ Where the request originates with an interested party – e.g. local resident, residents association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.’

2.5 Legal Implications

2.5.1 The Licensing Panel is required to hold a hearing to consider the review application and any relevant representation. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.5.2 Having considered the representations from all parties, the Panel has to determine the application for the review of the premises licence. The Panel is required to take such of the steps listed below at 2.5.3 (if any), as it considers necessary for the promotion of the licensing objectives. If the Panel does not consider that any of the steps listed at 2.5.3 are necessary for the promotion of the licensing objectives then it should do nothing.

In coming to a view about whether such a step in 2.5.3 is necessary for the promotion of the licensing objectives, the Panel would need to take into account the review application, any relevant representations, the evidence given at the hearing, the representations made by the premises licence holder, the Guidance issued by the Secretary of State and the Council's Licensing Policy.

2.5.3 Where it considers it necessary for the promotion of the licensing objectives, the options available to the Panel are:

1. to modify the conditions of the Licence;
2. to exclude a licensable activity from the scope of the licence;
3. to remove the designated premises supervisor;
4. to suspend the licence for a period not exceeding three months;
5. to revoke the licence;

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

2.5.4 Any modified conditions should be practical and enforceable.

2.5.5 The licensing authority may at any time reject any ground for review specified in an application for review if it is satisfied that either: (a) the ground is not relevant to one or more of the four licensing objectives; or (b) the application is made other than by a responsible authority and the ground is frivolous, vexatious, or a repetition. A ground for review is a repetition if a reasonable interval has not passed since an earlier review application or the grant of the premises licence and the ground is identical or substantially similar to: (i) a ground in the review which has already been determined; (ii) a representation considered by the licensing authority at the time of first granting the premises licence; (iii) or a representation that would have been made when the application for the premises licence was first made but for the fact that it was excluded by the prior issue of a provisional statement in respect of the premises.

2.5.6 If any grounds of review are rejected on the basis set out in 2.5.5, the application for review is taken to be rejected to that extent.

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

- The common law rules of natural justice.
- The provisions of the Human Rights Act 1998.
- The considerations in section 17 of the Crime and Disorder Act 1998.

2.5.8 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).

2.5.9 In relation to section 17 of the Crime and Disorder Act 1998, it should be noted that 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.

2.6 Community safety

2.6.1 Refer to Licensing objectives, and Section 17 Crime and Disorder Act 1998 considerations, which are:

- 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 in support of the review application through Sergeant Carl Davis, Police Licensing Officer, Metropolitan Police, on the grounds of prevention of crime and disorder, prevention of public nuisance and the protection of children from harm.

2.7 Financial Implications

No financial implications

SECTION 3 - STATUTORY OFFICER CLEARANCE

on behalf of the Chief Finance Officer	<input checked="" type="checkbox"/>	Name: Sheela Thakrar
		Date: 06 March 2009
on behalf of the Monitoring Officer	<input checked="" type="checkbox"/>	Name: Paresh Mehta
		Date: 06 March 2009

S. 3.1: Supporting Information/ Background Documents

Premises licence
Review Application
Representations in support of review application
Plan of the premises
Location (GIS) Map

SECTION 4 - CONTACT DETAILS

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