

REPORT FOR: LICENSING PANEL

Date: 30 March 2010

Subject: Application to vary the premises licence held in respect of 'Sapphire Lounge', North Parade, Mollison Way, Edgware, HA8 5QH

Responsible Officer: Mr Finlay Flett, Head of Community Safety Services

Exempt: No

Enclosures: Variation Application
Premises Licence
Location (GIS) Map
Plan of the premises
Representations

Section 1 – Summary

The application to vary a premises licence issued under the Licensing Act 2003 to 'Sapphire Lounge', North Parade, Mollison Way, Edgware, HA8 5QH has attracted representations from two Responsible Authorities (the Metropolitan Police and Harrow Council Planning Department), and forty seven interested parties (local residents living in the vicinity of the premises). As per the Council's Licensing Policy and delegation of Licensing functions, all applications with unresolved representations are to be dealt with by the Licensing Panel.

Representations received

From	Relevant Representations details
The Planning Authority	Representation Received
Health & Safety	No representations 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	Representation Received

Representations from interested parties

From	Relevant Representations details
Interested Parties	Representations Received

Section 2 – Report

2.1 Current Situation

2.1.1 There is currently a Premises Licence in force at Sapphire Lounge, North Parade, Mollison Way, Edgware, HA8 5QH. A copy of the Premises Licence is attached to this report. Briefly, the premises licence authorises the following licensable activities:

Ground Floor

Sale of Alcohol	Monday-Sunday	11.00am -11.00pm
Regulated Entertainment	Wednesday-Sunday	7.00pm -11.00pm
Late Night Refreshment	Monday-Sunday	11.00pm -11.30pm
Hours open to the Public	Monday-Sunday	11.00am -11.30pm

First Floor

Sale of Alcohol	Monday & Tuesday	11.00am- Midnight
	Wednesday & Thursday	11.00am- 12.30am(following morning)
	Friday & Saturday	11.00am- 1.30am(following morning)
	Sunday	11.00am- 11.00pm
Regulated Entertainment	Wednesday	7.00pm- Midnight
	Thursday	7.00pm- 12.30am(following morning)
	Friday & Saturday	7.00pm- 1.30am(following morning)
	Sunday	7.00pm- 11.00pm
Late Night Refreshment	Monday to Wednesday	11.00pm- 12.30am(following morning)
	Thursday	11.00pm- 1.00am(following morning)
	Friday & Saturday	11.00pm- 2.00am(following morning)
	Sunday	11.00pm- 11.30pm
Hours open to the Public	Monday to Wednesday	11.00am- 12.30am(following morning)
	Thursday	11.00am- 1.00am(following morning)
	Friday & Saturday	11.00am- 2.00am(following morning)
	Sunday	11.00am- 11.30pm

2.1.2 An application to vary the premises licence has been submitted by Mr Mukesh Chandarana. The application proposes/provides:

- A revised plan of the premises as it now stands to reflect various changes to the premises including the addition of a large marquee in the rear patio area of the premises to be used primarily for smoking;
- To alter the current licensable hours in respect of the Ground Floor area only. (No amendment to the existing licensable hours in respect of the First Floor Bar have been sought);
- Seeks the inclusion of an additional licensable activity, namely the exhibition of films on the ground floor only, to the premises licence.

2.1.3 The proposed timings sought in respect of the Ground Floor can be found in the application form at sections B, E, F, G, H, I, L and M. The proposed new timings are as follows:

Sale of Alcohol	Monday to Sunday 11.00am- Midnight
Regulated Entertainment	Monday to Sunday 7.00pm-12.30am(following morning)
Late Night Refreshment	Monday to Sunday 11.00pm-12.30am(following morning)
Hours Open to the Public	Monday to Sunday 11.00am-1.00am(following morning)

2.1.4 The premise is situated at North Parade, Mollison Way, Edgware at the corner of Cotman Gardens, an area populated by both commercial and residential premises. A map of the area is attached to this report.

2.2 Brief History

2.2.1 The Premises Licence was originally granted to MacNeil Ltd on 8th August 2005 following an application to convert an existing Justices' Licence. In April 2009, MacNeil Ltd appointed Mr Mukesh Chandarana as the Designated Premises Supervisor. MacNeil Ltd remained the premises licence holders until 25th June 2009 when it was transferred to the current premises licence holder, Mr Mukesh Chandarana.

2.2.2 During the period June 2009 – February 2010, there have been 34 complaints reported to Harrow Council's Environmental Health Noise Service regarding this premise. Of these complaints, half (17) were not reported at the time of the alleged noise nuisance and therefore could not be verified by officers.

2.2.3 However the remaining 17 complaints were received by the Council's 'Out of Hours' Noise Service and officers were able to attend to witness any noise nuisance. It was found that of the 17 complaints, noise nuisance was only witnessed by officers on 6 occasions and only 2 of these occasions was music audible considered to be a statutory nuisance.

2.2.4 In September 2009, Mr Mukesh Chandarana was issued a formal caution by the Licensing Authority for breach of premises licence for the provision of regulated entertainment outside of permitted times. In November 2009, Mr Mukesh Chandarana entered into a 'Responsible Retailers Contract' with Harrow Council following a further breach of the premises licence being found, namely the premises was found open to the public beyond permitted hours. To date this contract has not been breached.

2.3 Representations

The variation application has attracted representations from two Responsible Authorities, namely the Metropolitan Police and Harrow Council Planning Department, and forty seven interested parties.

2.4 Consultation

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

2.5 Licensing Guidance Implications

In relation to the Council's policy at paragraphs 8.3 and 8.8, the applicant has addressed how they intend to promote the licensing objectives.

2.6 Legal Implications

2.6.1 The Licensing Panel is required to hold a hearing to consider the variation application and any 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.

2.6.2 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.

2.6.3 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 –

- i. To modify the conditions of the licence
- ii. To reject the whole or part of the application

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

2.6.4 It should be noted with all options that –

- Clear reasons should be given if the application is granted, refused or if additional conditions are imposed or existing conditions altered.
- Any additional 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.

2.6.5 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.

2.6.6 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).

2.7 **Community safety**

In relation to section 17 of the Crime and Disorder Act 1998, this states:

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.

The Borough Commander has made a representation through Sergeant Carl Davis, Police Licensing Officer, Metropolitan Police, on the grounds of prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

2.8 **Financial Implications**

There are no financial implications

2.9 **Risk Management Implications**

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. Such appeals are by way of re-hearing. The Appeal period is 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 17 March 2010		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 17 March 2010		

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Services Manager x 6237

Background Papers

- Variation Application
- Premises licence
- Location (GIS) Map
- Plan of the premises
- Representations