

REPORT FOR: LICENSING PANEL

Date: 6 March 2012

Subject: Application to vary a premises licence in respect of 'Kemps Fish Bar', 327, High Road, Harrow Weald. HA3 5EQ

Responsible Officer: Brendon Hills – Corporate Director, Community & Environment

Exempt: No

Enclosures: Application to vary a premises licence
Representations
Current Premises Licence
Location (GIS) Map

Section 1 – Summary

The application to vary a premises licence issued under the Licensing Act 2003 to Kemp's Fish Bar, 327 High Road, Harrow Weald has attracted representations from 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	Relevant Representations details
The Planning Authority	No representations 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
LFEP	No representations received
Metropolitan Police	No representations received

Representations from interested parties

From	Relevant Representations details
Interested Parties	Representations Received

Section 2 – Report

Current situation

2.1 An application has been made to vary a premises licence in respect of “Kemps Fish Bar”, 327 High Road, Harrow Weald (‘the Premises’).

2.2 The Premises currently has the benefit of a Premises Licence which was granted in 2005 under the Transitional arrangements. Briefly the current premises licence authorises the following licensable activities and timings:

Sale of alcohol (for consumption on the premises only):

Mondays to Sundays	11.00am – 11.00pm
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Late Night Refreshment:

Sundays to Thursdays	11.00pm – Midnight
Fridays and Saturdays	11.00pm – 01.00am (next day)

Hours Open to Public:

Sundays to Thursdays	11.00pm – Midnight
Fridays and Saturdays	11.00pm – 01.00am (next day)

2.3 Initially the variation application sought to extend the timings for licensable activities until 02.00am the following morning on each night and the addition of recorded music. However following discussions with the Police Licensing Sergeant, the applicant has amended his application.

2.4 The application now seeks to extend the timings for licensable activities as follows and to include the provision of Recorded Music as another licensable activity:

Sale of Alcohol (for consumption on or off the premises):

Sundays to Thursdays	11.00am - Midnight
Fridays and Saturdays	11.00am – 01.00am (next day)

Recorded Music:

Sunday to Thursday	11.00am - midnight
Friday and Saturday	11.00am - 01.00am (next day)

2.5 The applicant’s proposed steps to promote the licensing objectives are listed in Section P of the application.

Representations

2.6 The application to vary a premises licence has attracted six representations from interested parties. These representations primarily raise issues pertaining to the prevention of public nuisance which the panel should consider when determining the application. The panel cannot consider issues that do not go towards the promotion of the licensing objectives and can only consider matters pertaining to the licensing objectives raised in the representations and any supporting documentation submitted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.7 Copies of all the representations received are attached to this report.

Consultation

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

Licensing Policy Implications

2.9 In relation to the Council's Licensing policy at paragraphs 8.3 and 8.8, the applicant has addressed how he intends to promote the licensing objectives.

Legal Implications

2.10 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.

2.11 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.

2.12 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

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

2.13 It should be noted with all options that –

- Clear reasons should be given for the decision.
- Any additional or modified 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

2.14 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

- 2.15 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. 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).

Community Safety

- 2.16 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 not made a representation against this application.

Financial Implications

- 2.17 There are no financial implications.

Risk Management Implications

- 2.18 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. The Appeal period is 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

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

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Services Manager x 6237

Background Papers: Current Licence, Licensing Act 2003, Statutory Guidance