

Application for the Variation of Premises Licence

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| Committee | Licensing Sub-Committee |
| Officer Contact | Charlene Ellis - Licensing Officer (Ex 7433) |
| Papers with report | Appendix 1 - Application form Appendix 2 - Site map of local area & photos of premises Appendix 3 - Representations from Responsible Authorities Appendix 4 - Representations from Interested Parties Appendix 5 - Existing licence and premises plan |
| Ward name | Eastcote & East Ruislip |

1.0 SUMMARY

To consider a variation application for the 'Re Bar', 163 Field End Road, and relevant representations from Responsible Authorities and Interested Parties against the application.

2.0 RECOMMENDATION

That the Licensing Sub-Committee GRANT the application subject to the conditions proposed by the applicant and the Responsible Authorities which will promote the Licensing Objectives and comply with national and local policy requirements.

3.0 APPLICATION

3.1 Name of applicant
Mr Darren Farrell

3.2 Type of application applied for
A variation of premises licence to alter the operating times and to extend the times to provide licensable activities; Late Night Refreshment; Regulated Entertainment; and sale of alcohol.

3.3 Description of premises taken from the application form
Public House

3.4 A copy of the application form and premises plan is attached as **Appendix 1**

3.5 A site map of the local area and photos of the premise are attached as **Appendix 2**

3.6 Licensable Activities

| <u>Activity</u> | | <u>Permitted now</u> | <u>Proposed</u> |
|---------------------------------------|-------------------------------|----------------------|-----------------|
| Sale of Alcohol: | Consumption on the premises | ✓ | ✓ |
| | Consumption off the premises | | |
| Regulated Entertainment: | Plays | | |
| | Films | | |
| | Live Music (Indoors Only) | ✓ | ✓ |
| | Recorded Music (Indoors Only) | ✓ | ✓ |
| | Performances of dance | | |
| | Indoor Sporting Events | | |
| | Boxing/Wrestling | | |
| Late Night Refreshment (Indoors Only) | | ✓ | ✓ |

3.7 Licensable Activity Hours

| | Sale of Alcohol | | Regulated Entertainment | | Late Night Refreshment | |
|------------------|------------------------|-------------|--------------------------------|-------------|-------------------------------|-------------|
| | Existing | Proposed | Existing | Proposed | Existing | Proposed |
| Monday | 10:00-00:00 | No Change | 10:00-00:00 | No change | 23:00-00:00 | No change |
| Tuesday | 10:00-00:00 | No Change | 10:00-00:00 | No change | 23:00-00:00 | No change |
| Wednesday | 10:00-00:00 | No Change | 10:00-00:00 | No change | 23:00-00:00 | No change |
| Thursday | 10:00-00:00 | No Change | 10:00-00:00 | No change | 23:00-00:00 | No change |
| Friday | 10:00-01:00 | 10:00-02:00 | 10:00-01:00 | 10:00-02:00 | 23:00-01:00 | 23:00-02:00 |
| Saturday | 10:00-01:00 | 10:00-02:00 | 10:00-01:00 | 10:00-02:00 | 23:00-01:00 | 23:00-02:00 |
| Sunday | 10:00-23:30 | No Change | 10:00-23:30 | No Change | 23:30-23:30 | No Change |

3.8 Opening Hours

| | Existing | Proposed |
|------------------|-----------------|---------------------|
| Monday | 10:00-00:30 | No Change |
| Tuesday | 10:00-00:30 | No Change |
| Wednesday | 10:00-00:30 | No Change |
| Thursday | 10:00-00:30 | No Change |
| Friday | 10.00-01.30 | 10.00- 02:30 |
| Saturday | 10.00-01.30 | 10.00- 02:30 |
| Sunday | 10.00-00:00 | No Change |

3.9 The Premises Licence has provision to extend the licensable activity hours and the opening times by 1 extra hour on the following days;

- Burns Night
- 14th February, Valentines Day
- 1st March, St David's Day
- 14th March, Commonwealth Day
- Commencement of British Summertime
- 23rd April, St George's Day
- Easter Sunday
- Easter Monday
- May Day Bank Holiday Monday
- Spring Bank Holiday Monday
- FA Cup Final Day
- Summer (August) Bank Holiday Monday
- 31st October, Halloween
- 5th November, Guy Fawkes Night
- 30th November, St Andrews Day

3.10 The premises licence has provision to extend the licensable activity hours and the opening times by 2 extra hours on the following days;

- 17th March, St Patrick's Day
- Sunday preceding May Day Bank Holiday
- Sunday preceding Spring Bank Holiday Monday
- Sunday preceding Summer (August) Bank Holiday Monday
- 24th December, Christmas Eve
- 26th December, Boxing Day
- 27th December
- 28th December
- 29th December
- 30th December

3.11 Operating Schedule and Conditions

The operating schedule as proposed by the Applicant can be found within Appendix 1; application form.

Section M of the operating schedule denotes the applicants' intention of demonstrating the steps he proposes to take, in order to further promote the licensing objectives.

The Licensing Authority considers that the language used in respect of some of the proposed steps, when transposed, would not result in an enforceable condition, and therefore the following have been rewritten by the Licensing Authority for consideration by the Sub-Committee in order to achieve certainty:

- Two Door Supervisors shall be employed at the premises on Fridays and Saturdays from 20:00 hours until 30 minutes after closure of the premises
- Use of the patio / rear garden will be prohibited to customers after 20:00 hours; except in the event of an emergency

These conditions are in addition to the existing conditions which will remain in place and can be viewed within Annex 2 of Appendix 5.

4.0 **CONSULTATION**

4.1 Closing date for representations
28th August 2015

4.2 Public Notice published in local newspaper
29th July 2015

4.3 The application was published on the Councils website on **31st July 2015**. Responsible Authorities and Ward Members were notified of the application on **31st July 2015**.

Four Responsible Authorities and **Seven** interested parties have responded - See 5.0

5.0 **REPRESENTATIONS**

5.1 Responsible Authorities - Appendix 3

| Responsible Authority | Ground for Representation |
|-------------------------------|-----------------------------------|
| Licensing Authority | Public Nuisance |
| Police | Crime & Disorder, Public Nuisance |
| Environmental Protection Unit | Public Nuisance |
| Fire Authority | |
| Public Health | Public Nuisance |

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| Trading Standards | |
| Planning Authority | |
| Safeguarding Children | |
| Food, Health & Safety | |

5.2 Interested Parties - Appendix 4

| Interested Party | Address | Grounds for Representation | Representative Body |
|--|------------|-----------------------------------|---|
| Hillingdon Anti-Social Behaviour Investigations Team | [REDACTED] | Public Nuisance | N/A |
| Adrian Redgewell | [REDACTED] | Public Nuisance | N/A |
| Jane Cogan | [REDACTED] | Public Nuisance | N/A |
| Sarah West | [REDACTED] | Crime & Disorder; Public Nuisance | Presenting a petition containing 24 signatures |
| Fiona Sheehan | [REDACTED] | Crime & Disorder; Public Nuisance | N/A |
| Cllr Nick Denys | [REDACTED] | Public Nuisance | Ward Councillor of Eastcote & East Ruislip writing on behalf of Cllr Catherine Dann and Cllr Becky Haggar and representing residents in the ward. |
| Caroline Blackmore | [REDACTED] | Crime & Disorder; Public Nuisance | N/A |

5.3 The following Responsible Authorities have responded and indicated that they do not wish to make a representation and therefore have no concerns about this application:

Fire Authority

5.4 The following Responsible Authorities have not responded and are therefore considered to have no concerns about this application:

- Trading Standards Service
- The Planning Authority
- Safeguarding (Child Protection)
- Food, Health and Safety Team

6.0 BACKGROUND INFORMATION

6.1 Current Licences held

The premises have been licensed as a public house, under the Licensing Act 2003, since 24th November 2005.

Members attention is drawn to the provision for extra hours contained within the current premises licence on certain days of the year. Should Members be minded to grant this variation, it should be noted that the extra 1 hour and extra 2 hours will apply in addition to any new hours specified on the licence, where those special days fall on a Friday or Saturday. In effect, this would mean that the hours for licensable activities would be extended to 3am and 4am respectively and that the opening hours would be extended to 3.30am and 4.30am respectively.

6.2 Current Designated Premises Supervisor

Mr Darren Farrell - no change is currently proposed

6.3 Description of the Premises

The premises occupies a small retail style unit inclusive of rear outdoor patio space. The premises is in a terraced position facing out onto Field End Road, Eastcote and adjoins two neighbouring retail outlets.

Directly positioned above the property are a number of residential dwellings.

There are no parking facilities at the premises but to the rear of the property runs a service road leading to two council operated car parks.

A number of the photos in Appendix 2 demonstrate the above details.

6.4 Other licensed premises nearby

The RE Bar is situated in a high street setting, nestled amongst various eateries and is sited approximately 68 metres from Champers Bar and 89m from The Ascott public house, which both currently hold premises licences and operate a similar style of business.

Details of these operations and activities are noted below:

Champers Bar -

The sale of alcohol by retail and regulated entertainment

Friday and Saturday between 10.00 and 01.30 the following day

Late night refreshment

Friday and Saturday between 23.00 and 02.00 the following day

Opening Hours

Friday and Saturday between 10.00 and 02.00 the following day

The Ascott public house

The sale of alcohol by retail and regulated entertainment

Thursday, Friday and Saturday between 11.00 hours and 01.00 hours the following day

Late night refreshment

Thursday, Friday and Saturday between 23.00 hours and 01.00 hours the following day

Opening Hours

Thursday, Friday and Saturday between 11.00 hours and 01.20 hours the following day

There are also a number of other licensed premises situated nearby. These include:

- Tesco Express closing at 23:00
- Budgens closing at 00:00 hours
- Shapla Restaurant operating Monday - Friday until 00:00
- Best Kebabs operating Sunday - Thursday until 00:00 and Friday-Saturday 02:00.

7.0 OFFICER'S OBSERVATIONS

7.1 Applicant history

The RE Bar has been licensed under the Licensing Act 2003 since 2005 and in that time has seen 2 changes in management, Mr Darren Farrell being the third. The current occupier, Darren Farrell, has been the licence holder and DPS at the premises since February 2014.

Since Mr Farrell's involvement with the premises there has been one application to alter the premises licence by way of minor variation, in March 2015. This was to amend an existing condition which stipulated entry to the premises was restricted to persons aged 21 or over; the revised condition now reads "Persons under 18 years of age shall not be admitted into the premises"

7.2 Visits made by Licensing Officers

October 2014

A Licensing Officer visited the premises on 9th October 2014 following a complaint that the premises may have been operating outside of licensed hours. The Licensing Officer checked the CCTV system to ascertain whether the premises were in use after licensed hours and whether the CCTV system was compliant with the licence conditions detailed on the premises licence. The CCTV system did not produce the requested images and also appeared not to be retaining the images for the period of 30 days as required by the premises licence.

The Licensing Officer spoke to the premises licence holder who agreed to call an engineer to rectify the issues with the CCTV immediately. The Licensing Officer agreed to carry out a further check at a later date.

December 2014

Following the investigation in October 2014 regarding the non-compliant CCTV system, the same Licensing Officer visited the premises to check whether the issues had been resolved. The CCTV system was demonstrated to the Officer and was found to be recording images in compliance with the conditions on the premises licence. No further action was taken in respect of this matter.

August 2015

A compliance visit was made on 19th August 2015, during the consultation stage for this application. This was carried out by a Licensing Officer and the inspection was made by appointment.

The Officer met three members of staff Kevin Bates - Premises Assistant, Jane Hanson - Site Manager and Karen Dawood - Office Assistant.

The focus of the visit was to ensure all current conditions were currently being complied with and the findings overall were satisfactory. However, there were slight inconsistencies with an existing condition which reads;

“Two Door Supervisors shall be employed at the premises on Fridays and Saturdays from 20.00 hours until close of the premises”.

CCTV footage was checked on the following dates and the noted observations were made:

- 18/07/2015 - security staff not seen until approximately 9pm (exact time of arrival was not confirmed)
- 07/08/2015 - One doorman seen at 20:00 hours, doorman number two did not arrive until 20:22
- 14/08/2015 - 1 doorman seen at 20:00 hours, doorman number 2 did not arrive until 20:08 hours

Due to the nature of objections received in relation to the current variation application, the CCTV was also checked for evidence of garden use into the late hours. On all occasions viewed, except for one occasion, the garden was closed and not in use after 20:00 hours. On the occasion it was being used, usage ceased at approximately 20:30 hours.

7.3 Complaints received

A number of complaints and communications were received by Regulatory Services between 3rd May and 23rd June 2014 by a local resident of The Close, Eastcote. The resident contacted the service five times during this period complaining of loud noise and issues with noise escape, due to the doors opening to the rear patio area. The complainant was seeking remedial action from the Council.

These complaints resulted in an investigation by the Antisocial Behaviour Investigations Team (ASBIT) and the Environmental Protection Unit (EPU). A voluntary agreement was put in place between the licence holder, the EPU Officer and the ASBIT Officer, to close the rear doors at 10pm each night, however this agreement was not imposed upon the licence as no formal application was made. A Licensing Officer advised the complainant and the ASBIT Officer of the premises licence review process and explained how licence conditions are imposed.

This set of complaints was also the subject of a Members Enquiry.

7.4 Temporary Event Notice history

In the preceding 12 months, one application to extend the opening and operating times has been received by the Regulatory Services team. This was a late notice and was for the period 12 April to 13 April 2014, ceasing licensable activities at 4am. The Environmental Protection Unit objected under the prevention of public nuisance objective and the Temporary Event Notice was subsequently refused.

7.5 Relevant Sections of the S182 Guidance

The Committee's attention is drawn to the following, particularly relevant sections of the S182 Guidance:

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

7.6 Relevant Sections of the Hillingdon Licensing Policy

The Committee's attention is drawn to the following, particularly relevant sections of the Hillingdon Licensing Policy:

Appendix B - Prevention of Crime and Disorder (Page 17)

Appendix D - Prevention of Public Nuisance (Page 21)

8.0 LEGAL COMMENTS

8.1 When considering licence applications the Sub-Committee shall carry out its functions with a view to promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

8.2 The Sub-Committee must ensure that all licensing decisions have:

- taken into account all relevant representations
- a direct relationship to the promotion of one or more of the four licensing objectives
- regard to the Council's statement of licensing policy
- regard to the Secretary of State guidance
- there must not be a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded

8.3 Applications must be considered with regard to the principles of fair process and the Human Rights Act 1998.

8.4 Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so.

- 8.5 When considering an application for the variation of an existing licence, only the variation is subject to determination. No changes can be made to a licence or conditions attached unless they are subject to the variation application.
- 8.6 The Sub-Committee is advised that when considering applications to vary an existing licence, regard must be had to any relevant representations that are made before taking such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps are
- grant the application (or part of the application) to vary the licence
 - modify the conditions of the licence (conditions are deemed to be modified if they are altered/omitted or new conditions are added);
 - reject the application to vary the licence